

No. 11904

IN THE

United States Circuit Court of Appeals
FOR THE NINTH CIRCUIT

EDNA D. HEATH, Executrix of the Last Will of
FRED W. HEATH, Deceased, and MYRA C.
KNAPP, Executrix of the Last Will of DANIEL
A. KNAPP, Deceased,

Appellants.

vs.

JOHN N. HELMICK, Trustee of the Estate of ME-
LANIE DOUILLARD WOODD, Bankrupt,

Appellee.

TRANSCRIPT OF RECORD

(In Two Volumes)

VOLUME II

(Pages 257 to 535, Inclusive)

Upon Appeal From the District Court of the United States
for the Southern District of California

Central Division

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(Testimony of Melanie Douillard Woodd)

The Referee: Go ahead.

Mr. Bowden: Q. Is that the correct value of the property here, the money you inherited from your mother's estate, \$23,649.41?

A. No, my one-fourth would be \$10,000 and something. I received no properties or anything, but before they divided that that was my share, just like the others. They had the same amount.

Q. Now, isn't it a fact that in addition to what you received from your mother's estate you received a piece of property that was held by you and your mother in her lifetime?

A. That is correct, but that didn't belong to the estate at all. Mr. Heath got that.

Q. Let me ask you if the value of the property you received from your mother's estate in property and cash, plus the joint tenancy, is not \$23,691.49?

A. Well, that is different.

The Referee: Yes, I want to get straightened out on this point. I think you should have the decree. That is not part of her probate estate.

Mr. Bowden: It is part of her inheritance. Was it [6] appraised?

A. It had no business being in there. All I needed to do was to record the deed for \$1.

The Referee: Are you offering this in evidence?

Mr. Bowden: No. All we can do is to offer it by reference.

(Testimony of Melanie Douillard Woodd)

The Referee: Do you have a copy?

A. No, we do not.

The Referee: Do you want to read it into the record or is that necessary? In other words, what you want as a starting point is the property she inherited by reason of the death of her mother; a portion of which she took from the estate and a portion as surviving joint tenant?

Mr. Bowden: That's right.

The Referee: Well, apparently according to the affidavit for tax purposes it was received at the time as \$23,691.49, of which \$10,000 was a specific bequest and then there was a joint tenancy property also, is that correct?

Mr. Bowden: Yes. I will read a portion of the decree of disbursement. A decree of disbursement in the Superior Court, Case No. 170,205, dated September 27, 1938, in Department 25 of the Superior Court, in and for the County of Los Angeles, among other things refers to the following: To Melanie Douillard Woodd, daughter, all jewelry, personal effects, and household goods, and the sum of \$10,000 in [7] cash. To Melanie Douillard Woodd, one-fourth of the rest, residue and remainder of said estate. That is substantially correct, is it not?

Mr. Knapp: Yes, I believe so.

The Referee: Now, what was the jewelry involved there? What were the personal effects and the household furniture involved at? We will add those to the \$10,000 and take one-fourth of that and that would be the apparent result as far as the estate is concerned.

(Whereupon a short recess is had.)

MELANIE DOUILLARD WOODD,

resumed the stand and testified further as follows:

The Referee: On this matter, Mr. Bowden, would it be possible to have the bankrupt supply the schedule or inventory of the property which she took of the estate, together with the estate appraisal thereon?

Mr. Bowden: I don't know whether she can supply that information or not. It is here in the file.

The Referee: The file is not in evidence.

Mr. Bowden: No. but I thought we could read portions of the inventory and divided it by one-fourth.

The Referee: Maybe that is the answer to it. I don't know how laborious that will be.

Mr. Bowden: The inheritance tax certificate, I think, fixing the tax is probably the best evidence as to the value of everything she got from the estate. [8]

The Referee: Yes, that might present a different value than the appraisal in the estate, I don't know whether they are different or not.

Mr. Bowden: It is the same appraisal and apparently from looking through the file there was no re-appraisal. I imagine their total tax is calculated on the value of the estate. That shows that she received from this estate property in the value of \$23,691.49, and since we took the recess I found out that joint tenancy property was not included in that. There was a different proceeding and the appraisement of her interest was made in that proceeding. So we can take that figure as \$23,691.49.

Q. Now, Mrs. Woodd, what property did you receive from your joint tenancy interest with your mother?

A. 1160 North Hobart.

Q. Do you know the value of that property?

A. It was \$4,200.

(Testimony of Melanie Douillard Woodd)

Q. The total value?

A. Mother paid \$4,200 for it and there was a \$2,400 mortgage.

Q. Now, what was the value of it again?

A. I say she paid \$4,200 for it.

Q. When did she buy it? A. In June, 1937.

Q. You think it was worth about the same when you inherited it? [9] A. I don't think it was.

Q. Who owns that Hobart property now?

A. Mrs. Yarborough.

Q. Did you sell it to her? A. Yes.

Q. When did you sell it?

A. In October or November of 1938.

Q. How much did you get for it?

A. I got—I cannot tell you, either eight or nine hundred dollars for the equity.

Q. What became of the property and money that you inherited from your mother's estate which was valued by the inheritance tax appraiser at \$23,691.49?

A. That takes in that little cottage again and my share, my one-fourth of the \$10,000 and something—\$4764 out of the \$10,000 bequest. I had no money when my mother died.

Q. Well, you got property of the value of \$23,691.49, and according to the records that is the total value of everything you received from your mother's estate. Now, you tell us in your own words what became of that property.

A. I sold the 1824 South Vermont, that was valued at \$15,600.

Q. 1824 South Vermont was appraised at \$15,600?

A. Yes, sir.

(Testimony of Melanie Douillard Woodd)

Q. What became of it? [10]
A. I sold it for \$7,500.
Q. Who did you sell it to?
A. Mr. Vissalough, an attorney.
Q. Who is he? A. I don't know.
Q. For how much? A. \$7,500.
Q. Is that the amount of money you received for it?
A. No. After the escrow and everything was taken out I received \$6,400 in cash.

Q. All right. Tell us about the other properties.
A. Well, there is no other property. I bought 1732 South Vermont—

Mr. Bowden: Just a moment. You have now told us what happened to the property of the value of \$15,600 that you received. That would leave, according to my figures, property of the value of \$12,291.49, what became of that?

The Referee: Where do you get that difference?
Mr. Bowden: If you take the total appraisal for inheritance tax purposes, the sum of \$23,691.49, plus the value of the property she received from her joint tenancy, which she said cost \$4,200.

Mr. Crandall: There is a \$2400 note against it.
The Referee: You are not going to have a satisfactory record this way. What did you inherit from the estate, if that is important here in your issue. I don't know just what [11] your point is, but let's have the identity of the articles.

Mr. Knapp: May I speak as *amicus curiae*?
The Referee: Yes.
Mr. Knapp: I have a copy of the report of the inheritance tax appraiser, he took his figures from the

(Testimony of Melanie Douillard Woodd)

original files of the case. I mean from the amount that was set forth in the inventory, but the members of the family, the two Douillards, the nephew and the niece and Mrs. Woodd, made an agreement that they would disregard this entire inventory and that they would divide it into fourths, and accordingly Mrs. Woodd received one piece of property valued at \$15,600 and that was all she got. Then there was the sum of money that she was to pay into the fund so as to equal the \$4,764.66. I have a copy of the inheritance tax appraiser's record before me, it was based upon the inventory and nothing else, and in that, in order to figure out the \$23,691, it states as follows: That the cash bequest was \$10,000, furniture and jewelry \$519, residue \$11,922, joint tenancy \$1,250, but not one word is stated there about the Vermont property of \$15,000, because this was based entirely upon the inventory. If counsel desires I would be pleased to let the Court have it for guidance.

The Referee: Yes. Now, Mr. Bowden, aren't we concerned here with what she actually received from the estate? [12]

Mr. Bowden: From the estate and her joint tenancy.

The Referee: Now, if they had a separate deal, wouldn't you take the report of the inheritance tax appraiser? That is why I don't believe you will be satisfied until we go back to the simple question: What, as a result of the settlement with the heirs, did she receive from this estate? We will treat the joint property separately. Now, there was so much in jewelry and residue and other amounts. It seems to me we could start at the first and cover that. Let me just take a moment and see if I can bring out what I have in mind.

(Testimony of Melanie Douillard Woodd)

The Referee: Q. In your settlement with the heirs you still kept the jewelry which you were to inherit, did you not?

A. No, sir. I gave it all to my sisters-in-law and my brothers. Also the furniture.

Q. Even though the will gave you so much money in this specific bequest, for some reason you made an adjustment with your relatives?

A. Yes, sir, I just gave it to them.

Q. Was that after or before the property was distributed in court? A. Afterwards.

Q. How long afterwards?

A. No, it was done before. I should not have done it but I did it before. [13]

Q. Then the decree of the court does not express what entirely happened, does it?

A. No. I paid all of the taxes or whatever it was on those things.

Q. Under the will you were to receive \$10,000 plus the jewelry, plus the personal effects, plus the furniture, and plus one-fourth of the estate.

A. That is right.

Q. And the decree of distribution is made in accordance with the consent of the heirs or in accordance with the will, which? A. In accordance with the heirs.

Q. You then gave away the jewelry?

A. I gave that up of my own free will. But the agreement on the other properties, and that all was done in Mr. Heath's office, and they took all of the money and property and said they would sell me the big building.

Q. Now, we have the background. Let's see just what you got then. First, the fee has been expressed as \$1,569, and we will take that as being the amount, unless you

(Testimony of Melanie Douillard Woodd)

want to show otherwise later in the hearing. What then did you receive other than this Vermont property in the settlement? A. Nothing.

Q. What is the address of that property?

A. 1824 South Vermont, it is a business building. [14]

Q. So as a result of your adjustment with the heirs you took in lieu of what you were entitled to, you took this property at 1824 South Vermont.

A. Yes, sir.

Q. Did you get your administratrix's fees in addition? A. Yes, sir.

Q. Now, the property at 1824 South Vermont was appraised in the estate at \$15,600? A. Yes, sir.

Q. But you sold it, after you acquired it, to an attorney, Mr. Vissalough, for \$7,500? A. Yes, sir.

Q. And you received \$6,400 in cash?

A. Yes, sir.

Q. And when did you sell it and when did you receive the cash?

A. I sold it in—I think August, 1939.

Q. Did you receive the cash at that time?

A. Yes, sir.

Q. Why did you only receive \$6,400 cash if it sold for \$7,500?

A. Well, there was assessments on it and escrow and realtor fees.

Q. I see. Now, what did you do then, with that \$6,400; did that go into a bank account some place? [15]

A. Yes, sir, I put \$5,000 of it, at first, in the Western—the Federal Western Housing or something.

Q. You deposited it in there?

A. Yes, sir, and I think I kept \$1,500.

(Testimony of Melanie Douillard Woodd)

Q. Did you put that balance in the bank or keep it in cash?

A. I think I kept it in cash but I may have put it in the bank.

Q. Then in addition you had the property you had received as the surviving joint tenant? A. Yes, sir.

Q. Which you sold to Mrs. Yarborough in 1938?

A. Yes, sir.

Q. And you got how much for it?

A. I cannot recall whether it was eight or nine hundred dollars, but right in there.

Q. That was for your equity? A. Yes, sir.

Q. Apparently there was \$2,400 due on it?

A. Yes, sir.

Q. How and when did she pay you the eight or nine hundred dollars for your equity?

A. She made a deposit of \$300, I think, and the realtor fee came out of that, I think I got \$150 down and \$10 a month finally until it was paid for.

Q. And it has been paid for? [16]

A. No, sir, it is in litigation. I have no more to do with it.

Q. It was payable to you, wasn't it?

A. Yes, sir.

Q. By contract or trust deed?

A. Trust deed, I think.

Q. How did you dispose of that contract payable to you?

A. I made a payment on my—on Dr. Hovey's judgment.

Q. By assigning it? A. Yes, sir.

(Testimony of Melanie Douillard Woodd)

Q. That takes care then of the joint tenancy property. All right. I have the picture now.

Do we have now to go back and talk about the \$23,691.49?

Mr. Bowden: I don't think so, but I believe the witness is mistaken when she says the decree of distribution was made in accordance with the agreement with the heirs; the record shows the distribution was made in accordance with the will.

Mr. Crandall: I think that is correct. I think the heirs disregarded the decree.

The Referee: Are any of the heirs parties to this proceeding here?

Mr. Bowden: No, sir. [17]

The Referee: Well, if you want to make any explanation it may be done in the course of the hearing.

Mr. Bowden: Q. Mrs. Woodd, when you say you had this this agreement with the heirs, did you get your \$10,000 in cash from this estate outside of this agreement with the heirs?

A. I got my \$10,000—I don't know how to say that. It never got into my hands. Mr. Heath had \$10,000 in the bank, because I was bonded for \$30,000 as executrix; then \$4,764.66 was taken out of that \$10,000 and then also the inheritance tax that I had to pay on that \$10,000.

The Referee: Well, this is getting over my head. I assume from my question that she never got that \$10,000 or any part of it. Now, if there was some other situation, let's have that brought out and perhaps Mr. Bowden can bring it out better.

Mr. Bowden: Q. Mrs. Woodd, let's go at it in this way: The decree of the court was made in accordance

(Testimony of Melanie Douillard Woodd)

with the will and then you and the heirs of the estate decided to do something else. A. That is right.

Q. What was the agreement between you and the heirs?

A. That they should take all of the money and all of the properties except this one building and they were to give me my fourth in that building, and I was to pay the \$4,764.66 to equalize my share; that is the way Mr. Heath [18] said it. He got this building and I had to pay that.

Q. What was your share under this agreement with the heirs?

A. \$10,000; whatever the law said was my share.

Q. You don't understand my question. You had an agreement with the heirs that each of you were to get a certain amount of money; what portion did you get under that agreement?

A. I got this building; \$10,000 in the building.

The Referee: What was the reason for the settlement? You had a certain vested condition, why did you have to make any further adjustment?

A. They took all of the buildings, all of the good buildings.

The Referee: Q. Why did you have to take that? You were to get one-fourth and certain things, why did you change that?

A. Because they wanted me to. They said I had \$10,000 and I could buy that building and none of the others could.

Mr. Knapp: Mrs. Donahue didn't want any of the property sold; she wanted it to remain intact and be divided, and the effort of the heirs was to divide the property that way. Now, there was \$10,000, which she is not

(Testimony of Melanie Douillard Woodd)

separating from the other. That must be separated first, then after that there is the big building on South Vermont; then there [19] was the equalizing fund that had to go back in order to make it an equal matter all of the way around for the heirs, of \$4,754.66; and that is what she has reference to there.

The Referee: That is when they decided to settle the matter?

Mr. Knapp: Yes, They decided to settle the matter in accordance with the mother's wishes.

The Referee: Then she normally would receive only the one-fourth of the Vermont property; but she decided or they prevailed upon her to take it over, less the \$4,754, so she then made the adjustment, so she came out of the deal with the title to the Vermont property and nothing else?

Mr. Knapp: Well, the \$10,000 less the \$4,000; \$5,200 and some odd dollars.

The Witness: Yes, that is right.

The Referee: So as a result of the settlement you got \$5,200 and some odd dollars plus the Vermont property?

A. Yes, sir.

The Referee: Well, we have traced the Vermont property and we have traced the joint tenancy property and now for the first time you are mentioning to me something about \$5,200. A. Yes, sir.

The Referee: What bank was that in? [20]

A. The Citizens National Bank, I think.

The Referee: Q. So at that time if you didn't have any other estate you had the Yarborough contract, you had \$5,200, and you had the \$6,400?

A. That is right.

(Testimony of Melanie Douillard Woodd)

Q. That is what you had at that time?

A. Yes, sir.

Mr. Knapp: Again, your Honor, as *amicus curiae*—the Yarborough contract was for exactly \$800. But that does not include, however, the amount that she received prior to that time, about \$150 net.

The Referee: That I believe gives us the picture. You made a bad deal on the Vermont property.

The Witness: Yes, indeed I did. I see it now.

The Referee: Q. Of course, if you still had it, it would be all right. A. Yes, sir.

Mr. Bowden: Q. Now, what became then of the money you had? I think according to Mr. Knapp's statement you would have \$5,235.34 of the \$10,000, is that correct? A. Yes, sir.

Q. Plus your administratrix fee you would have had a total of \$6,437?

A. Well, on the executrix fee, I ate that up each month. I fed my brother's children and I took a few trips. That is what I did with that. [21]

Q. Now, you got five thousand and some odd dollars from the estate?

A. With that I built a house for George Douillard, for \$1,500, and I found he had not paid for the lot so I had to pay \$500 cash for the lot, and I took a trust deed back on that.

Q. For how much?

A. For the whole amount.

Q. \$2,000?

A. Yes, sir, or whatever it was. He was paying me \$10 a month as long as he lived or until he paid it out but he was so nasty with the bank that I sold it to Dr. Heirs for \$800.

(Testimony of Melanie Douillard Woodd)

Q. You sold it to Dr. Heirs?

A. Yes, sir, of Beverly Hills.

Q. Did he keep it?

A. I don't know, I don't even know him.

Q. You have not had anything to do with him since?

A. No, sir. I did all of this through a real estate agent. Now where are we? Oh, yes, I built this house. Then I paid the inheritance tax on the \$10,000, my own; that was \$375, and I bought the Virginia Avenue property for \$5,000 and I paid a deposit a thousand dollars on it, and a few months later I paid another thousand.

Q. Was that part of the estate?

A. No, sir. This is new land I bought. [22]

Q. You paid \$5,000 for it?

A. The price was \$5,000 but I made a deposit of a thousand dollars and two months later another thousand and I put a thousand on furnishings for that house and I remodeled the Virginia property. I made a duplex out of it, and that cost a thousand dollars, cement porches and the plumbing, and there was one garage on the Virginia property and I had to build three and I built a little cottage on the back end of the Virginia Avenue property that cost me \$2,000, and I had to build three garages, I moved one and built two more, cement, and I had asbestos in there for safety in case of fire and so forth, and that cost \$400.

Q. Did you say you paid \$5,000 for the Virginia Avenue property?

A. That was the price of it.

Q. Where are you getting that figure?

A. From my mind.

(Testimony of Melanie Douillard Woodd)

Q. It says there the purchase price was \$3,000.

A. That is wrong. The price was \$5,000. I paid \$3,000 on it. That is not right.

Q. Aren't those notes correct that you are using to testify from?

A. They should be but they are not.

The Referee: Q. From whom did you buy the property? A. The Pacific Mutual; Mr. Thirtle.

Q. In what year? [23] A. 1939.

Q. You bought it for \$5,000?

A. That was the purchase price.

Q. It was not \$3,000? A. No, sir.

Q. And you paid a thousand dollars down and later paid another thousand? A. Yes, sir.

Q. That would pay it down to \$3,000?

A. Yes, and I think I paid another thousand on it.

Q. Then you remodeled for a thousand dollars and built the garage for about \$2,000 and put the two garages on for \$4,000? A. Yes.

Q. And you think you paid another thousand dollars on it some place?

A. Yes, sir. The furniture for the Virginia property house cost a thousand dollars; that was an Electrolux, a stove, and everything. Then I bought the Glendale property.

Q. Well, let's follow the Virginia Avenue property. What happened to it?

A. Dr. Hovey got that in the judgment

Q. When was that?

A. Well, I could not pay my attorney and they filed through him.

Q. They sued and executed? [24]

A. Yes, sir.

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Q. When was that approximately?

A. Mr. Knapp would know that.

The Referee: Q. Well, we will pass that, What credit did he take at any time?

A. He bought it at sheriff's sale, for \$1,775, I think they said at the sheriff's office.

Q. Were you living in the property?

A. Yes, sir, I am the caretaker there.

Q. Is there another rental there?

A. There are two rentals altogether. Two besides me.

Q. How much does the cottage rent for?

A. Twenty.

Q. And how much the duplex?

A. Twenty-five.

Q. And you get yours there? A. Yes, sir.

Q. You collect the rent?

A. Yes, sir, and take it to Dr. Hovey.

Q. What credit did you get upon your attorney bill upon the execution sale of the property?

A. I guess Mr. Knapp can tell you.

Q. You had put in \$5,000 and the furniture is \$6,000, did they take the furniture?

A. No. I sold all of the furniture except the [25] little I have on my side.

Q. To whom did you sell it?

A. To different people.

Q. Why did you sell it?

A. I needed the money.

Q. It was in there and being rented, wasn't it?

A. First it was in there and those people moved out and they had dogs in there and they tore the furniture almost to pieces so I sold it to a second-hand man. That

(Testimony of Melanie Douillard Woodd)

was in the cottage. In the duplex I didn't have any furniture in there.

Q. So this property which cost you \$8,400, and you had the balance you think of two or three thousand dollars, you got how much credit on your judgment?

A. On the Virginia property?

Q. Yes. A. \$1,775.

The Referee: Q. That was all, was it?

A. I think so.

Mr. Knapp: May I explain to the court the effect of the judgment?

The Referee: Let's cover that later. What was credited on this property? What credit or consideration did she get upon the obligation?

Mr. Knapp: The credit was \$1,775.

The Referee: She is correct then. That seems to [26] bring it down to date on that.

The Referee: Q. Now, how did you lose the Yarborough trust deed and note?

A. How did I lose that?

Q. Yes, you don't have it any more, do you?

A. No. I assigned it to Dr. Hovey.

Q. Why did you assign it to Dr. Hovey?

A. As partial payment on the judgment.

Q. When did you assign it?

A. I don't remember.

Q. Was that after or before the house was sold, the Virginia Avenue property was sold?

A. It was after.

Q. How much did he give you, the full amount of the unpaid amount? A. I guess so.

Mr. Knapp: \$689.49, your Honor. I want to say this: It was first attached on April 11, 1940, and sub-

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sequent to the attachment it was assigned. By the way, the particular matter is now pending in the Supreme Court, where these files are at the present time.

The Referee: Now, that disposes of that property and the Virginia Avenue property. What, if any, cash did you have remaining? I imagine that would be in 1939. Had you put it all into these properties?

A. Not in these. Then I bought the Glendale property [27] for \$3,500.

The Referee: Q. That is another one?

A. Yes, sir.

Q. You have not mentioned that yet?

A. No, sir.

Q. When did you buy the Glendale property?

A. In 1939.

Q. What is the address?

A. 1255 South Glendale Avenue.

Q. For how much?

A. \$3,500. The deposit was \$1,750 and payments of \$40 a month, I think.

Q. What happened to that?

A. Dr. Hovey had a judgment.

Q. And he attached that?

A. Yes, and bought it through sheriff's sale.

Q. How much credit did he give you on that?

A. I don't know.

Q. Was that property rented? A. Yes, sir.

Q. What has he since done with that property?

A. Mr. Knapp would know. I understand he sold it.

Q. When did he sell it?

A. This year, I think.

Q. What did he get for it?

A. I don't know. [28]

(Testimony of Melanie Douillard Woodd)

Q. Why?

A. I have nothing to do with it.

Q. You are collecting the rents for it, are you not?

A. Oh, no, no.

Q. Well, on the other property. You apparently see him every month.

A. I have not seen him for about three months now.

Q. Why?

A. I have been ill. I just called him up and asked if I should make the payments to the bank.

Q. You just have not discussed it with him and you therefore don't know? A. That's right.

Q. He has not refused to tell you, but you have not asked him? A. That is right.

Q. But he has resold it this year?

A. Yes, sir.

Q. How do you know?

A. Mr. Knapp told me.

Q. But he didn't tell you, Dr. Hovey?

A. No, sir.

Q. And you don't know what it was sold for?

A. No, sir.

Q. Do you know how much credit he gave you on the [29] judgment? A. No, your Honor.

Mr. Knapp: As amicus curiae, and with the sheriff's deed before me; \$1,250.

The Referee: Q. Now, is that all of the property?

A. That is all, I think.

Q. And that is the disposition of it?

A. Yes, sir, but I spent out a lot more money than that. I bought a car for one nephew for \$600 and one for \$90.

(Testimony of Melanie Douillard Woodd)

Q. Did you make them presents of the cars?

A. Yes, sir.

Q. What is the name of the nephew you got the \$600 one for? A. Louis Douillard.

Q. Where does he live?

A. He stays with me right now.

Q. Does he still have the car?

A. No. He sold it before he went to the war.

Q. Did he put it in another car?

A. I don't think so.

Q. You bought this \$600 automobile and gave it to him? A. Yes, sir, to take me around.

Q. Was it in his name or yours?

A. In his. In the first instance it was in my name. [30]

Q. What kind of a car was it?

A. A second-hand Plymouth.

Q. You purchased it in your name?

A. Yes, sir.

Q. When was it transferred on the motor vehicle records to your nephew?

A. Right quickly after that. I was afraid that he might hurt someone and I didn't want to be responsible. I cannot drive.

Q. It was purchased for your use, was it?

A. Yes, sir.

Q. Do you recall what year it was assigned to him?

A. It must have been 1939.

Q. What is his full name?

A. Louis Alfred Douillard.

Q. And he is now residing with you?

A. Yes, sir.

Q. You purchased it in 1939?

A. Yes, sir.

(Testimony of Melanie Douillard Woodd)

Q. How old is he now? A. 34.

Q. And he went to the Army? A. Yes, sir.

Q. And has now returned? A. Yes, sir.

Q. And he sold the car when he went into the Army? [31] A. That is right.

Q. When was that? A. I cannot say.

Q. 1941 was Pearl Harbor—did he go in before or after Pearl Harbor?

A. After Pearl Harbor. I think in 1942.

Q. Did you know to whom he sold the car?

A. I heard him say some preacher, but I don't know his name.

Q. Do you know how much he got for it?

A. No, sir.

Q. Did he purchase another car with the money?

A. No, sir.

Q. Does he have any car now?

A. Yes, sir.

Q. What kind?

A. DeSoto, he just got it this week.

Q. A new one?

A. No, a second-hand one; he paid \$1,200 for it.

Q. Did he ever tell you how much he got for the car you gave him?

A. No, your Honor. You see he sold everything; his clothes and all, and he just came to tell me goodbye when he was leaving.

Q. Why were you afraid to have the car in your name, Mrs. Woodd, because of accidents? [32]

A. Sure; I cannot drive.

Q. You have never had a driver's license?

A. Never in my life. I cannot drive.

(Testimony of Melanie Douillard Woodd)

Q. He sold the car before or after he went into the Army? A. Before.

Q. Was it before or after the threatened litigation which you had herein and in which counsel defended you, that you transferred the car to your nephew? Had the litigation threatened at the time you transferred the car to your nephew?

A. No; I don't think we were in litigation yet.

Q. I didn't say in litigation, I said threatened.

A. He had it before that.

Q. You transferred it even before there was any discussion of litigation against you?

A. They never discussed it, they just pounced right on me.

Q. The litigation had nothing to with it?

A. No.

Q. Now, you mentioned another \$90 car that you gave to a nephew. A. Yes, sir.

Q. When was that?

A. In 1937 or 1938. I purchased a Master Nash from the estate for \$90 and gave it to George Douillard. [33]

Q. When did you do that? A. In 1938.

Q. Does he still have it?

A. I don't know. I don't see those people.

Q. What other expenditures did you have on your list that you want to mention?

A. Well, I built an incinerator at Glendale, and that cost me \$25. I had painting done inside and I bought a new heater and that came to \$275, and I put a lovely porcelain sink in and then I had a door and another porch made in, so you could rent the room in front.

(Testimony of Melanie Douillard Woodd)

Q. Was it rented?

A. No. I think that family is still there.

Q. How much did it rent for?

A. \$35 a month.

Mr. Bowden: Q. Mrs. Woodd, Emile A. Douillard is a relative of yours?

A. He is a half-brother.

Q. And he sued you? A. Yes.

Q. And that suit was filed on January 17, 1939?

A. Yes.

Q. Do you want to check these dates with me, Mr. Knapp? As you know we were unable to get the file and I am reading from appellant's opening brief and I assume the dates set forth there are correct. [34]

Mr. Knapp: I will stipulate they are.

Mr. Bowden: Q. That was tried during the months of February and March and April, 1940?

A. Yes, sir.

Q. And the judgment was ordered in that case on April 2, 1940, and signed April 25, 1940; and thereafter there was an appeal taken. Now, Dr. Hovey also sued you, did he not? A. Yes, sir.

Q. And he filed his suit against you on April 11, 1940? A. Yes, sir.

Q. And issued an attachment on the same days?

A. Yes, sir.

Q. And that attachment was on the Glendale property—

A. On everything I had. Virginia and the Hobart note and Glendale.

Q. For what did he sue you, Mrs. Woodd?

A. For the attorney fees.

(Testimony of Melanie Douillard Woodd)

Q. What was the amount of his demand?

A. I think \$7,000.

Q. And whose attorney fees were they?

A. Mr. Heath and Mr. Knapp.

Q. That is Mr. Knapp that is appearing here as amicus curiae? A. Yes. [35]

The Referee: Q. \$7,000? What litigation did you have up to April 11, 1940? What were the attorney fees for?

A. Mr. Knapp will be able to tell you that.

Q. No, you will have to tell me that. They rendered some services for you? A. Yes, sir.

Q. In what connection?

A. In this suit. Emile Douillard vs. Woodd.

Q. They were appearing for you in this relative's suit? A. Yes, sir.

Q. And that trial had taken place as indicated, the suit had been filed in January, 1939, and judgment was ordered on April 2, 1940? A. Yes, sir.

Q. And they had rendered services for you in that suit? A. Yes, sir.

Q. Any other matters?

A. In a divorce matter also. Mr. Heath had been my lawyer for years and I had not paid him anything.

Q. When did he represent you in the divorce matter?

A. I divorced my husband four or five times.

Q. Did he make you a rate?

A. No. I just came in there every time and wanted [36] to—

Q. How much did he charge—

A. It all came in this, altogether.

Q. How much did he charge you for the first divorce?

A. I think \$150.

(Testimony of Melanie Douillard Woodd)

Q. Did you pay him anything? A. No.

Q. How much did he charge you for the second divorce?

A. I don't know, I just kept going there.

Q. How much did you owe him on the divorces?

A. Oh, I don't know, maybe four or five hundred dollars.

Q. Had you paid him anything? A. No.

Q. Had you paid him the costs? A. No, sir.

Q. He had paid the costs? A. Yes, sir.

Q. Had you ever paid Mr. Heath any fees?

A. No; he paid the detective to follow him.

Q. Had you ever paid Mr. Heath any fees?

A. No.

Q. And when you inherited the money and got all of this cash from the estate did you pay him anything?

A. No, I didn't.

Q. Did he ask you for anything? [37]

A. Well, yes, sir, he asked me.

Q. Why didn't you pay him when you had all this money?

A. Well, I wanted to get myself a home and things first and I thought maybe I could fix it after that.

Q. What did he say when he asked you to pay him?

A. That is when the Douillard case was in there too?

Q. No—we are talking about the divorce cases that you had not paid him at all on, and you had had this inheritance and had all this money in the bank.

A. Well, when I was getting the divorces I had no money.

(Testimony of Melanie Douillard Woodd)

Q. Well, when he did ask you for the money what did he say? Did he say, "Madam, I have been carrying you in here for years and have gotten five divorces for you and I have not been paid, and I am getting tired of it"?

A. Well, just about that.

Q. You were still friendly, weren't you?

A. Sometimes I was and sometimes I wasn't.

Q. When he asked you for payment for fees for services what did you tell him?

A. I told him to try to get it from Mr. Woodd.

Q. What did he say?

A. He said he would try that and he did. I had \$2,000 alimony coming from Mr. Woodd and I wanted him to [38] collect that and take it out of that but he didn't get it.

Q. Did you think you were treating him right in not paying him? A. Well, no.

Q. But the net result was you did not pay him?

A. I meant to pay him some time.

Q. What other services did he render for you besides the litigation that started in January, 1939, and the divorce cases?

A. Well, one brother was quarreling with my mother most of the time and tried to declare her insane and incompetent, and I would go to Mr. Heath a good deal on that and he would advise me what to do.

Q. Did he ever send you a statement for that?

A. No.

Q. Did he ever tell you how much you owed him for those services? A. No, he didn't say.

Q. What other legal services did he render for you?

A. I had to sue George Douillard about this home.

(Testimony of Melanie Douillard Woodd)

Q. That is the property you finally sold?

A. I had to fight with all of those people for everything I did.

Q. When was that litigation?

A. Well, we didn't go to court about it.

Q. When was that? [39]

A. That was in 1938, I think.

Q. That was some of the money you used to build him a home? A. Yes.

Q. After you completed that then you had trouble with the lot? A. Yes, sir.

Q. And he was to pay you \$10 a month and he caused you so much trouble that you had it sold through the real estate agent? A. Yes, sir.

Q. Was it after you sold it or before that Mr. Heath rendered you the services? A. Before I sold it.

Q. How much do you think he was charging you for those services?

A. I don't know. He said he had an open account and some day he would give me the whole thing.

Q. What other services did he render you? Or were there other services in connection with this Emile Douillard suit?

A. Oh, yes, he fought right along with Mr. Knapp for seven years.

Q. Were there any other services?

A. Maybe to eject someone from a house or something like that. [40]

Q. But you never received a statement?

A. No.

Q. Then one suit was filed against you in January, 1939, and you didn't know it was going to be filed, did you? A. Not until I was served.

(Testimony of Melanie Douillard Woodd)

Q. That is what I mean. Had you had some discussion with them or had they said they were not satisfied with the situation?

A. No. They treated me very lovely for a whole year.

Q. Then you took the complaint in to Mr. Heath?

A. I was broke then.

Q. No, you were not broke in January, 1939, you had some property.

A. I had property, but I didn't have any money.

Q. You had rentals, some rentals.

A. Yes, I did on Hobart.

Q. Did you have discussions with him, what it would cost to represent you?

A. No. He said he didn't think it would be much of a case and he could not tell.

Q. Did he tell you he would defend you in the lawsuit and save the property for you if you would turn it over to him? A. No, sir. [41]

Q. Nothing of that sort? A. No, sir.

Q. You didn't imagine at that time you were going to have to turn it all over?

A. No, sir, I thought I would win.

Q. But if you lost you didn't think the whole property would go for attorney fees?

A. No, I didn't know. I had never been in a lawsuit before.

Q. You thought you would win? A. Sure.

Q. But there was no statement made as to what it cost you or what the attorney fees would be?

A. No. When the judgment was put on me by Thurmond Clarke Mr. Knapp and Mr. Heath wanted some

(Testimony of Melanie Douillard Woodd)

kind of a settlement, they wanted \$7,000 and I thought that was too much money and I got an old friend I knew, a Mr. Martindale, and we went to court and contested that and \$4,000 was what it was gotten down to.

Q. At that time you assumed with the \$4,000 they would take the property away from you, you would have to give up everything to pay the attorney fees?

A. No. I didn't know how I was going to do it or how it was to be done.

Q. Did Emile Douillard get a judgment against you? That meant when you lost that case they would take this [42] property away from you.

A. I never gave it a thought that they would take it away. We were just fighting; they fought for seven years.

Q. And you thought \$7,000 was too much?

A. Yes, sir.

Q. And you contested the matter? A. Yes, sir.

Q. You went to court with an attorney?

A. Yes, sir.

Q. Do you recall testifying?

A. No. I don't think I got on the stand at all. Mr. Martindale spoke for me.

Q. You never received an itemized statement for their services? A. Yes, I think I did.

Q. Do you still have it? A. No, sir.

Q. How long was it after they got that judgment against you that they came out and took the property away from you; that Dr. Hovey came out?

A. I don't know. I think they executed right away because I had a year or so to redeem and I could not do it.

(Testimony of Melanie Douillard Woodd)

Q. Was there any discussion about being able to pay this \$4,000 and get your property back?

A. No, I don't think I talked about that. You see [43] we kept on fighting all of the time and getting in deeper and deeper. I see now where it was worth \$7,000.

Q. When did you make the arrangement to continue to live in the property? How did that come about?

A. Well, Mr. Heath spoke to Dr. Hovey. I asked Mr. Heath if I could stay there for a while and he spoke to Dr. Hovey, I think. You see Mr. Heath was my attorney and took care of everything. I didn't have to go to Dr. Hovey.

Q. Then after the account was assigned to Dr. Hovey you took the matter up with Mr. Heath?

A. Yes, sir.

Q. What did he say about your staying there; did he say you could? A. Yes.

Q. And did you make the arrangement that you would collect the rent for him? A. Yes, sir.

Q. And this litigation has been going on?

A. Yes, seven years and it is still going on.

The Referee: I think I have the general picture. Of course, I don't know anything about the litigation, the relative litigation; what was it about?

Mr. Bowden: As I understand it the Douillards sued Mrs. Woodd, and they claimed that she had made an oral promise to pay them a certain proportion of the estate, [44] irrespective of the terms of the will or the decree of distribution. Mr. Clements handled that matter and he represented the Douillards.

The Referee: Well, I would like to have a general understanding of it. I don't know that it is the issue at

(Testimony of Melanie Douillard Woodd)

all. It is just the question that there was a certain situation which arose that resulted in the filing of a suit that resulted in a judgment on April 25, 1940.

Mr. Clements: And the judge announced the judgment on the 2nd and signed it on the 25th. The original litigation was this: When Mr. Heath drew the will of Mrs. Donahue they provided for a \$10,000 legacy to Mrs. Woodd, and the other heirs objected to that and they claimed Mrs. Woodd promised if they would not contest the will she would divide the \$10,000 legacy so each one would get their share. When the estate was settled she refused to do this and they sued her for \$2,500 each, and they were successful; that is the orginal lawsuit.

The Referee: That is the suit in which they all apparently joined and then got several judgments.

Mr. Clements: That is correct.

The Referee: How long did the trial take? You were in the case at that time?

Mr. Clements: Yes, sir. We started in February and had several adjournments. I think the actual trial lasted about 12 days. [45]

The Referee: The question was whether or not there was this agreement by Mrs. Woodd to divide the \$10,000?

Mr. Clements: That is correct. It was a verbal promise. I have forgotten just when the trial started but it was about 10 or 12 days in trial.

The Referee: I would like to have this information, I don't know its pertinency here, but you have talked about some matters—what has been the progress of that matter and those judgments you referred to are final, I take it?

Mr. Clements: Yes, sir.

(Testimony of Melanie Douillard Woodd)

The Referee: What about this other litigation?

Mr. Bowden: I was coming to that. According to the records in the Douillard case the notice of appeal was filed January 12, 1940, and submitted to the District Court of Appeal in 1941, and finally decided by the Supreme Court on August 3, 1942, and I understand the Supreme Court affirmed the lower court.

The Referee: Those are the Douillard cases?

Mr. Bowden: Yes, sir.

The Referee: What about this—

Mr. Bowden: In the Dr. Hovey case against Mrs. Woodd. The case was tried on July 1, 1941, on the short cause calendar, and judgment entered July 3, 1941.

Mr. Knapp: Pardon me—July 8, 1941.

Mr. Bowden: The printed brief says July 3.

Mr. Knapp: Well, it is immaterial. [46]

Mr. Bowden: And then petition issued July 17, 1941, and the sheriff's sale was September 8, 1942.

The Referee: Now, what has been, if any, the litigation following that, between the parties? Have there been any actions to quiet title, or any further actions in the matter?

Mr. Bowden: There was case filed entitled Emile A. Douillard vs. Lloyd E. Smith, et al. That was filed against Lloyd E. Smith, Florence Smith, Melanie Woodd, Dr. Hovey, Mr. Knapp, and Mr. Heath, Superior Court case No. 486,331. Generally that case was to quiet title to the Glendale property.

The Referee: Has that case been tried?

A. Yes, sir, and judgment rendered in favor of the defendant.

(Testimony of Melanie Douillard Woodd)

The Referee: When was that judgment?

A. That judgment was—

Mr. Knapp: May I add to counsel's statement? That suit was tried in Department 17 of the Superior Court. I have the findings of fact here in that case. The case alleged fraud and conspiracy for the purpose of defrauding the plaintiff in the action by securing a judgment in the Hovey case against Mrs. Woodd. The findings were to the effect that it was not proved.

The Referee: And what is—

Mr. Knapp: That case then, after it was tried and [47] judgment was rendered was appealed and the Appellate Court sustained that and it went to the Supreme Court and was denied.

Mr. Clements: It was sustained in the District Court of Appeal and the petition for rehearing in the Supreme Court was denied.

Mr. Knapp: That is right. I was in error. It was sustained in the District Court of Appeal.

The Referee: In favor of the defendants against Emile Douillard?

Mr. Knapp: Yes, sir, then a hearing was denied in the Supreme Court.

The Referee: What files are in the District Court now? Someone mentioned something about some files being used by the District Court of Appeal.

Mr. Clements: Well, the original Hobart file and the Douillard case are in the Supreme Court. Puissegur, a relative, sued on the \$900 note of Mrs. Woodd. That case was decided in favor of the plaintiff and affirmed by the District Court of Appeal.

(Testimony of Melanie Douillard Woodd)

Mr. Knapp: And a hearing has been granted in the Supreme Court and is now awaiting decision.

The Referee: That has nothing to do with these matters?

Mr. Knapp: I don't think it has.

Mr. Bowden: Q. Now, Mrs. Woodd, shortly after April 2, [48] 1940, April 2, 1940, is the day that the judge ordered a judgment in the Douillard vs. Smith case—

Mr. Clements: No, the Douillard vs. Woodd case.

Mr. Bowden: Yes, where they sued you.

A. Yes, sir.

Q. About April 2, shortly thereafter you had a conversation with Mr. Heath and Mr. Knapp regarding their attorney fees, did you not? A. Yes.

Q. That took place in their office?

A. Yes, sir.

Q. Would you say it was the day after April 2 or would it be April 2, or don't you know?

A. I don't know.

Q. But it was shortly after that? In order to refresh your memory, Dr. Hovey filed a suit against you on the 11th of April, so it would be some time between April 2 and April 11, wouldn't it? A. I suppose so.

Q. Do you remember being there? A. Yes.

Q. What conversation did you have?

A. Well, Mr. Heath wanted his fee.

Q. Just tell us what he said and what you said and what Mr. Knapp said.

A. I don't remember. I think Mr. Knapp can tell [49] that better than me.

The Referee: Where was the meeting held?

(Testimony of Melanie Douillard Woodd)

A. In Mr. Heath's office.

Q. Did you go from court to his office?

A. I don't remember.

Q. But it was shortly following the court hearing?

A. I guess so.

Q. What did Mr. Heath say to you? Did he say, "I want to be paid," or would he talk about it or what?

A. Yes, your Honor, he said some arrangements should be made for his fee or something.

Q. What did you say? Did you agree to it or what happened? How much did he say you owed him?

A. Well, I think he said \$7,000 would be the fee.

Q. What did you say?

A. I thought that was too much.

Q. Did he say how much of that was for the present trial or did he say all of it was for the present trial?

A. I don't remember.

Q. Well, you spoke of the divorce fees.

A. Yes.

Q. It included everything, did it, up to date?

A. Yes, but I don't know that we talked about the divorce that day.

Q. But he mentioned \$7,000?

A. Yes, sir. [50]

Q. What did you say?

A. I said I thought that was too much. First I offered to give a piece of ground and Mr. Knapp said he didn't think much of that. He wanted his money.

Q. What ground were you going to give?

A. I guess Glendale.

(Testimony of Melanie Douillard Woodd)

Q. You proposed giving the Glendale property to them?

A. Yes, or selling it for the money.

Q. And that would leave the Virginia place for your home? A. Yes, sir.

Q. Was anything said on April 2 about these relatives getting the judgment and they would take the property all away from you?

A. No, I don't think so. He just spoke of his own fee.

Q. Then later on did he tell you they were going to assign it to Dr. Hovey and he would sue or what; how did that come about?

A. Well, they sued me. I don't know how that came about between them and Hovey. I had not met Dr. Hovey.

Q. Well, that was a few days later?

A. Your Honor, I have gone through so much I cannot remember anything.

Mr. Bowden: Q. Mrs. Woodd, had either Mr. Heath or [51] Mr. Knapp ever discussed this with you before that time? A. No.

Q. Had they ever rendered you any statement or demanded any payment for their services? A. No.

Q. And on that day they told you, did they not, that they were going to file suit against you and have the court decide? A. Yes, sir.

Q. And it was going to be a friendly suit?

A. That's right. And they did that.

Q. And they sued for \$7,000? A. Yes.

Q. Then after that you went to see whom?

A. Mr. Martindale.

(Testimony of Melanie Douillard Woodd)

Q. Where was he?

A. In Glendale, and afterwards I met him at the Clark Hotel. He had no office.

Q. Who suggested you go to him?

A. My aunt.

Q. He put in an answer for you, didn't he?

A. Yes.

Q. And you agreed that a judgment could be entered against you for \$4,000?

A. I went to court and we fought it.

Q. But before that you wrote a letter to Mr. Heath [52] or Mr. Knapp saying, "I agree to pay \$4,000"?

A. No, I wrote a letter to Mr. Heath stating I thought \$2,500 was enough and I wrote one to Mr. Knapp stating I thought \$1,500 was enough.

Q. That would be \$4,000?

A. Yes, sir.

Q. Then when you went to court against Dr. Hovey, Mr. Martindale handed that letter to the judge and then he gave a judgment for \$4,000, and no one testified, did they?

A. Yes, someone was on the stand. They had a trial.

The Referee: Q. Were you in court?

A. Yes, sir, I was with Mr. Martindale. He spoke for me.

Mr. Bowden: Q. Didn't he just tell the court at that trial that you would be agreeable to having a judgment rendered for \$4,000?

A. I don't remember what was said. All I remember was we had a real court trial.

(Testimony of Melanie Douillard Woodd)

Q. How did you happen to write these letters to Mr. Heath and Mr. Knapp stating you would be willing to pay \$2,500 and \$1,500?

A. After I went home and thought it over I decided it was too much.

Q. Did they suggest you write a letter?

A. They did not.

Q. Did you write it the same day you left their [53] office?

A. That I cannot say but I know I went home and wrote those letters.

Q. What did you do with those letters?

A. I sent one to Mr. Heath and one to Mr. Knapp.

Q. Who appeared for Dr. Hovey at that trial? What lawyer was there?

A. I guess Mr. Heath.

Q. Was Mr. Knapp there?

A. I don't recall.

Q. Now, at that time you had appealed the case of Douillard vs. yourself, had you not?

A. I guess so.

Q. Who were your attorneys in that appeal?

A. Heath and Knapp all of the way through.

Q. And they were right up to the very end?

A. Yes.

Q. In other words, they were representing you in the Douillard case and at the same time they were suing you through Dr. Hovey to make you pay their attorney fees?

A. That's right.

Q. When you had this conversation with Mr. Heath and Mr. Knapp in their offices between April 1 and April 11, 1940, and as you say you told them you thought \$7,000

(Testimony of Melanie Douillard Woodd)

was too much, did you have any conversation with them about the charges for carrying on this appeal, if there was an appeal? [54] A. No.

Q. Now, the appeal was not filed until June, 1940; did you have any conversation prior to June, 1940, about them taking the appeal for you?

A. Mr. Heath took sick and was in the hospital for several months and I think I went to Mr. Knapp and asked him if he would carry on with the appeal.

The Referee: Q. Was the \$7,000, the amount they had formerly billed you, was that to take care of the appeal also? A. That I cannot say.

Q. Or were they to charge you other money in addition to that? A. They didn't say.

Mr. Bowden: Q. When was the first time you had a conversation with either Mr. Knapp or Mr. Heath regarding the appeal from the judgment of Douillard vs. yourself? A. I can't tell you that.

Q. Whose idea was it to appeal?

A. My idea. I decided that in the courtroom as soon as I saw I was losing.

Q. And you instructed Mr. Heath and Mr. Knapp to go ahead with the appeal?

A. Yes, sir. And Mr. Heath took ill and was in the hospital and Mr. Knapp worked alone.

Q. What arrangements did you have to pay them for [55] the appeal?

A. I didn't have any arrangements.

Q. But you already owed them \$7,000?

A. Yes, sir.

Q. Did you ask them how much it was going to cost to appeal this case? A. No, I didn't.

(Testimony of Melanie Douillard Woodd)

Q. Did you expect them to do it for nothing?

A. No.

The Referee: Q. Have you paid anything for the appeal?

A. No, I have not paid them anything except they took the property.

Q. How much do you owe them for the appeal in the Emile Douillard case? A. I don't know.

Q. Was the \$7,000 to cover the appeal?

A. I imagine when they got it down to \$4,000 that would take care of it.

Q. And they were to go ahead in the future?

A. I don't know.

Q. Do you owe them any more money besides the \$4,000 judgment? A. I don't know.

Q. Did you schedule them as creditors for these additional services in your bankruptcy? [56]

A. No, just \$4,000.

Q. Then apparently at the time of your bankruptcy you didn't think you owed anything more?

A. I didn't. I didn't know it was going to go on and on like this.

Q. It had gone on for four years at that time?

A. Yes, sir.

Q. And those four years or three years of service, did you owe them anything for that?

A. I just have owed them \$4,000.

Q. You owed them in April, 1940, and they said \$7,000 and you agreed, but you beat it down in court to \$4,000. Now, they have rendered a lot of services since then, haven't they? A. Yes sir.

(Testimony of Melanie Douillard Woodd)

Q. And you have not paid them anything for that service? A. No.

Q. Do you owe them for it? A. I don't know.

Q. Were they to render it for nothing?

A. I wouldn't think so.

Q. Was the \$4,000 settlement on the suit up to April, 1940, was that to pay for this later work also?

A. I don't know.

The Referee: Well, I am trying to find out. They [57] said, "We want \$7,000 in April, 1940," and you said, "That is too much," and the court allowed \$4,000 after it had heard from you. Now, they went ahead after that and spent their time in your matter.

The Witness: The appeal was on then.

The Referee: Yes, but since then they have spent other time in your matters?

The Witness: Yes, sir.

Q. And you have not paid them anything for it?

A. No.

Q. Are you to pay it; do you owe it?

A. I don't know. They have not said anything to me about it. I just let Mr. Knapp go ahead and fight and fight. I didn't know there was going to be so much more; there is no use. There is nothing I can say.

Mr. Bowden: Q. Did Mr. Knapp or Mr. Heath ever send you any statements showing you owed them anything for this appeal?

A. I don't remember any.

Q. Do you know how much you owe them now?

A. No, I don't.

Q. You have no idea? A. No, I sure don't.

(Testimony of Melanie Douillard Woodd)

Q. How would you find out that information?

A. I would not even ask about it. Why should I? I have not got anything. I cannot pay. [58]

The Referee: Q. Where do you get your support at the present time?

A. I work for the Fifth Street Store four hours a day.

Q. How long have you been working there?

A. Three years off and on; I have been ill.

Q. Then you get your rent free?

A. Yes, sir, and I have been ill for three months; they pay me at the rate of \$10 a week for support.

Q. When did you go to work at the Fifth Street Store? A. In 1943, I think.

Q. What did you do in 1941? A. Nothing.

Q. How did you support yourself?

A. Yes, I did work, too; I worked off and on in a little restaurant and got my food there.

Q. What restaurant? A. Jim's Restaurant.

Q. Where is that?

A. It was on the corner of—

Q. Was it in 1941 or 1940 or 1942 when you worked there?

A. I don't know. They fed me; that is all I know. They were my tenant and they let me come there and gave me a few cents and my food.

Q. And Mr. Heath and Mr. Knapp was taking everything [59] and you had nothing left?

A. They had to take it to pay the mortgages.

Q. Well, there was rent coming in?

A. Well, the cottage is \$20 and the duplex is \$25.

(Testimony of Melanie Douillard Woodd)

Q. Were you allowed to use any of that money?

A. No.

Q. You didn't have any money from the property?

A. No.

Q. You didn't collect the Glendale money?

A. No.

Mr. Bowden: Q. When did you first learn they had taken the Glendale property?

A. I was notified of the sheriff's sale.

Q. When was that?

A. I don't know; 1942 or 1943.

Q. You say you had an offer to redeem that?

A. Yes, the sheriff told me. I used to go down to talk to the sheriff.

Q. Where did you go to talk to the sheriff?

A. Down at the police station.

The Referee: Q. It would have been much easier to have talked to Mr. Heath.

A. He was sick. He had been sick for a long time.

Q. He could have done much more than the sheriff. He could have given you a number of years to redeem it.

A. Could he? [60]

The Referee: Sure. He is the one who is taking your property from you; not the relatives.

The Witness: Well, he is dead now. What am I going to do?

The Referee: Well, it is about time for adjournment; I think we had better put this over.

Mr. Knapp: I would like to call the court's attention to the question of privilege here. The agreement made was to carry on all of the work for her.

(Testimony of Melanie Douillard Woodd)

The Referee: I believe it would be better for the record, at this continuance, for you to clear that up.

Mr. Knapp: Furthermore, the compensation at the time involved the proposition that in view of the order of the court the probabilities were that the judgment creditors in the Douillard case would attach everything; therefore it was simply a race as to who would get the property.

The Referee: Well, I believe at the continuance you had better go over this and explain it. Do you want to go ahead with this objection part the next week? How much longer will it be from your position, Mr. Bowden?

Mr. Bowden: I imagine a couple of hours.

The Referee: We have Tuesday at 2:00 p.m.

Mr. Bowden: I could not be here.

The Referee: Well, Thursday at 2:00 p.m., or we could put it on in the morning.

Mr. Bowden: I am afraid I cannot be here on April 4. [61]

The Referee: What about Friday, April 5? We will put it down for the 5th at 10:00 o'clock. Then we will make sure the matter is concluded during the day.

Mr. Bowden: I have a short matter before Referee Dickson; could I attend to that?

The Referee: Well, supposing we put this on then at 10:30.

Mr. Bowden: Thank you.

(Court adjourned.) [62]

Melanie Douillard Woodd April 5, 1946,
Hearing on Objection to Discharge.

The Referee: The matter of Melanie D. Woodd.

Mr. Bowden: Ready. Mrs. Wood, will you take the stand, please?

MELANIE DOUILLARD WOODD,
having been first duly sworn, on oath testified as follows:

Direct Examination

By Mr. Bowden:

Q. Now, Mrs. Woodd, at your last hearing I think you gave me this document which has a lot of items on the face of it.

A. To the best of my ability—

Q. Well, isn't that the document you used to refresh your memory when you were testifying?

A. Yes, sir, but I have made a new one since then.

Mr. Bowden: We will offer this as Exhibit A for the Trustee.

Q. Now, you have just handed me another document?

A. Yes, sir.

Q. Is this the document you have just handed me?

A. Yes, sir.

Q. What was the purpose of that document?

A. That was to correct this one. Mr. Laugharn [63] didn't quite understand this first one and we thought this one was a little more accurate, and it might not be altogether accurate, though.

Q. Who made out this document?

A. Mrs. Knapp typed them and Mr. Knapp helped me.

(Testimony of Melanie Douillard Woodd)

Q. Did you supply the information or did he?

A. Mr. Knapp helped me a great deal and I helped myself on some of these.

Q. Do you have any books and records to which you referred? A. No, sir.

Q. Where are your books and records?

A. They have been destroyed years ago.

Q. When did you destroy them?

A. Mr. Clements had me in court, I don't recall whether it was in 1940 or 1941 in Judge Kauffman's court.

Q. That was on supplemental examination?

A. Yes, sir. The case was all over and Mr. Clements was satisfied after looking over all of the books and papers and things.

Q. Just answer the questions, if you will. That supplemental examination was in connection with the judgment obtained in the case of Douillard vs. Woodd?

A. No.

Q. What case was it?

A. Emile Douillard vs. Woodd. [64]

Q. That is what I said; in the Superior Court case.

A. Yes.

Q. And that was the case which was appealed, wasn't it, by Mr. Knapp? A. Yes, sir.

Q. And the judgment was later affirmed?

A. Yes, sir.

Q. Now, was this examination you had after the District Court of Appeal had affirmed the case or before?

A. Before.

(Testimony of Melanie Douillard Woodd)

Q. Have you been in court in connection with that case since the judgment was affirmed by the District Court of Appeal?

A. Yes, I have been in court many times.

Q. With relation to the last time you were in court, when were your books and records destroyed; was it after the last time you were in court or before that?

A. Oh, no, after I was examined for something—I don't know; I had to bring all of these papers up there and after that I had no more—

Q. Just a moment. That was the examination in which they asked you about your property and where it was?

A. And all of my checks.

Q. Yes, and did you have your records with you at that examination?

A. I had everything I had, I guess. [65]

Q. How long after that examination did you destroy them? A. I don't know.

Q. Was it a matter of months or weeks or days?

A. Oh, I can't tell you that.

Q. Can you tell us approximately when you were in court on this examination?

A. No, I cannot; I don't remember the date.

Q. Do you remember the year?

A. I went to court in 1939 the first time.

Q. No, I am asking you now about the time you went in to be examined about your property.

A. I cannot tell you, that must be of record.

Q. Can you give us your best recollection, was it in 1941? A. I don't remember.

Q. Was it in 1940? A. I don't remember.

Mr. Crandall: I think the records will show.

(Testimony of Melanie Douillard Woodd)

Mr. Bowden: No, we don't have that here. The date of that supplemental examination.

The Witness: I don't remember it.

Mr. Bowden: Q. Now, you have a copy of this document, Trustee's Exhibit 1, have you not? This is Trustee's Exhibit 1, is that a copy of what you are referring to now? [66]

A. Yes, that is the one here.

Q. Now, you show on this the total amount received was \$21,470, is that correct? A. Yes.

Q. Received from the estate of Emily S. Donahue?

A. Some from the estate and some from my own.

Q. Now, the total cash you got from the estate was \$11,500? A. Yes.

Q. What became of the rest of the cash that was in the estate, to the extent of approximately another \$10,000?

A. That was divided among the heirs.

Q. Well, you paid out \$4,764.66 to the heirs yourself, did you not? A. You mean my share?

Q. No, I don't. You recall you had approximately \$21,000 and some dollars in the estate, cash, is that correct?

A. I don't know how you arrive at that. My fourth would have been cash if I had gotten it in cash.

Q. I am not asking you that. How much cash was there in the estate of your mother when the decree of distribution was made? A. I don't know.

Q. Well, you were the executrix, were you not?

A. Yes, but I have forgotten, it has been so long. [67] There is a book there that will tell you all about it.

Mr. Bowden: Mr. Knapp, do you have a copy of the decree of distribution? We don't have the court file.

(Testimony of Melanie Douillard Woodd)

(Mr. Knapp hands instrument to Mr. Bowden.)

Mr. Bowden: This is not it; this is not what I want.

Q. Well, Mrs. Woodd, let's assume that there was approximately \$20,000 in your bank account as the executrix at the time of the distribution; you testified at your last hearing, I believe, that you did not distribute the property according to the decree of distribution between the heirs and yourself, is that correct?

A. Before the money and properties were distributed the heirs got together and chose what pieces of property they wanted and left only one building, that was the Vermont building, and the money was divided among the other children. Emile Douillard took his inheritance all in cash, nearly all, and one big apartment house; and Frank Douillard took cash and two beautiful homes at Manhattan Beach and Puissecur took some notes and bonds and his sister took some mortgages, I think, on property, and I took the big building and to get that building I had to pay my brothers or the estate \$4,764.66, that is before I got my hands on the \$10,000. That was taken out.

Q. Is that all of the cash you paid the other heirs in the estate? A. That is all. [68]

Q. Was that out of your share or out of the estate fund?

A. No, that was out of my bequest.

Q. Out of the \$10,000?

A. That is right. Then I purchased the equity in another building from my brothers and paid \$375 for the equity, there was a \$6,500 mortgage on that.

Q. Now, on this list that you have given me, or the copy, you say on about line 29: "Furniture for the Virginia Avenue, \$1,000." A. Yes.

(Testimony of Melanie Douillard Woodd)

Q. Where did you get that figure from?

A. Well, in my mind, more or less. I think it was a whole lot more than that. I had some very nice furniture.

Q. Do you have any of the receipts for that furniture? A. No.

Q. Where did you purchase the furniture?

A. Some at May Company and some at Sears Roebuck and some, I think it was the Los Angeles Furniture Company.

Q. In other words, that is just a guess, that it cost a thousand dollars; you have no records?

A. No, I have not.

Q. Is that true on the item for furniture for the cottage? A. Yes, I would say so. [69]

Q. When did you first discover you had made a mistake in making up this list, which is Trustee's Exhibit 1? When did you first discover that was not correct?

A. Well, I didn't discover it. The Referee said he didn't understand it and he would like to have us make up some figures or something to that effect, so I made another one.

Q. Well, you made the whole list over, didn't you?

A. I didn't copy it from that. I just threw it away.

Q. Well, take a look at the list you gave us. Now the figures are different, are they not?

A. Yes, but they come to the same thing.

Q. Well, on the list that you gave us the other day it is \$19,390. On the list you gave us this morning it is \$21,470.

Mr. Knapp: May I have those figures again?

Mr. Bowden: On Trustee's Exhibit 1, the total receipts are \$21,470; on Trustee's Exhibit 2 it is \$19,390.

(Testimony of Melanie Douillard Woodd)

Now, on Trustee's Exhibit 2 you show total expenditures of \$18,875.66. On Trustee's Exhibit 1 you show total expenditures of \$21,470.

Q. Now, what I want to know is when did you first discover the discrepancies in the figures?

A. I didn't even look at that. Mr. Knapp helped me with this, and helped me with that one, and when Mr. [70] Laugharn said he didn't understand it and he wanted some correct figures or something, I went up to Mr. Knapp's and we sat there about four hours and he asked me questions and I gave him these figures.

Q. Did you discover when you went up and talked to him that you had made an error?

A. No, I didn't even look at that. I promise you that.

Q. What was the purpose of making up this list you have this morning?

A. Mr. Knapp said this more correct.

Q. Do you know whether it is now correct or not?

A. I know it is the amount of money I got.

Q. How do you know that?

A. Because in that other one you started out with a figure and you had that \$4,200 cottage in there—I don't know how to express myself any more, but you didn't have the figures right in the beginning.

Q. If you have destroyed all of your books and records how do you know these figures are correct?

A. More or less they are. I can prove some of these, if you want to go to the mortgage company.

Q. Did you get your information from them?

A. No.

Q. You got all your information from Mr. Knapp, did you? [71]

(Testimony of Melanie Douillard Woodd)

A. Not all of it.

Q. What information did you get from Mr. Knapp?

A. Well, I got that, \$4,764.

Q. And the \$375 and the \$4,764.66 is the amount of money you paid out of your \$10,000 legacy?

A. Yes.

Q. And you got \$375—

A. Yes, that was taxes on the Vermont property.

Q. Did you pay those taxes? A. I did.

Q. When were they paid?

A. I got the property in October, 1938, and I paid them in November, that is the December payment.

Q. Now, look at those items again, under Paid Out, 1732 South Vermont, \$375.

A. That is the purchase price.

Q. \$375?

A. That is right. The building was sold to me for \$500 and the heirs allowed me to take off one-fourth, or \$125, and I had to pay them \$375.

Q. Is that the \$375 in the \$4,764.66 item?

A. No, that is another building.

Q. That is the Vermont building that you sold to Mr. Heath? A. Yes.

Q. Then he deeded back to you later, didn't he? [72]

A. No. He says he did. I don't remember on that.

Q. What became of it? A. He lost it.

Q. How did he lose it?

A. The bank foreclosed on him.

Q. Didn't he deed it back to you? A. No.

Q. You say he said he did.

A. I thought he said he did but I don't remember that.

All I know is he got the property and collected the rent.

(Testimony of Melanie Douillard Woodd)

Q. You paid the \$375 to whom?

A. To the Douillards.

Q. Not to Mr. Heath?

A. No; to the Douillards.

Q. Mrs. Woodd, are you sure that the \$4,764.66 item that you put as expenditure in the settlement of the estate, are you sure that was not paid out of the estate fund?

A. I am positive.

Q. What became of the estate fund?

A. The Douillards got it all except this one Vermont property which I had to pay, it came to \$16,500, and my share was \$10,800 and something, and I had to pay that to the Douillards \$4,764.66 out of my bequest.

Mr. Bowden: That is all.

The Referee: Any questions? [73]

Mr. Crandall: No questions.

Mr. Bowden: I would like to offer all of the evidence heretofore received in this proceeding under the bankrupt examinations under the first meeting of creditors, if the Court please.

Mr. Crandall: What date would that be?

Mr. Bowden: I think it was about January 7. I have not got the exact date. The transcripts are here, or they were at the last hearing. They were written up.

The Referee: The first meeting was apparently September 17.

Mr. Bowden: Yes, that was the first.

The Referee: 1945. Now, that was just the testimony of the bankrupt, was it not?

Mr. Bowden: That is right.

The Referee: Do you maintain that that is in any way related to her testimony in this proceeding? If it is

(Testimony of Melanie Douillard Woodd)

merely cumulative there is no reason to have it supplementing this record; it would only be on the theory there was something she should be bound by.

Mr. Bowden: I had particularly in mind her testimony regarding the deposit of the \$6,500. She deposited that, I believe she testified, in a building and loan association and the next day put it into the bank.

The Referee: I suggest you take that transcript—is that the one of the hearing of September 17? [74]

Mr. Bowden: Yes, sir.

The Referee: Or any other hearing, as far as the testimony of the bankrupt is concerned, and just read it over and offer those parts which are inconsistent with the present testimony, if there are any. Or to save time, if there is no objection, we will receive the whole transcript, subject to her right of explanation of it.

Mr. Crandall: No objection whatsoever, your Honor.

The Referee: Well, this will be received. I just thought it would clutter up the record unless there are some variances. Now, that includes what? You have the transcript there of what date?

Mr. Bowden: September 17, 1945.

The Referee: And that is the testimony of the bankrupt?

Mr. Bowden: Yes, sir. The rest of this transcript is testimony of Dr. Hovey which was given at a later date. I am not offering that.

The Referee: Do you have another transcript there?

Mr. Bowden: No. That is Dr. Hovey's, too.

The Referee: All right.

Mr. Bowden: That is all, if the Court please.

Mr. Crandall: I would like to call Mr. Knapp. [75]

DANIEL A. KNAPP,

having been first duly sworn, on oath testified as follows:

Direct Examination

By Mr. Crandall:

Q. You are familiar with the transactions entering into the probating of the estate of the mother of Mrs. Woodd?

A. No, not particularly. Not very much.

Q. Well, are you familiar with what the records of the estate show?

A. Yes, I have Mr. Heath's records.

Q. And you have read the specification of objection to discharge that was offered to the court by George T. Goggin? A. I have.

Q. And from your knowledge of the receipts and disbursements found from the records that you have and which are available to you, are you able to give to the court any information as to what money or properties Mrs. Woodd received from this estate and what disbursements were made?

A. The records of the case show she received \$10,000. But she received a house or rather a commercial property on Vermont Street, and that she paid out \$4,674.66 and that she paid out an inheritance tax of \$375 on the same. That is all the record shows except it also shows there was quite a considerable amount of cash and when the [76] parties made their agreement to—the records show the cash was distributed entirely between the heirs, Emile Douillard, Frank Douillard and Puissegur Douillard, and his sister, I have forgotten the name.

Q. And you were a party to an action in the Superior Court, the Superior Court of the State of California, in

(Testimony of Daniel A. Knapp)

and for the County of Los Angeles, entitled Hovey vs. Woodd? A. That is true.

Q. Can you explain that situation? Just what was done and what was finally determined?

A. That action stemmed in a conversation in the office of Mr. Heath a day or so after a judgment was ordered in the case of Douillard vs. Woodd, and in that conversation Mrs. Woodd was present, Mr. Heath, and myself; and at that time her attention was called to the fact that the probabilities were that the order of the court would mature in a judgment against her for \$7,500 with costs, and either Mr. Heath or I asked her what she wanted to do under that situation. She said that she wanted to appeal, that she thought the judgment was an absolutely unjust judgment; she wished to appeal. We told her that it would require a great deal of extra work, that there had been a large amount of testimony and the transcript would be large, but we would have to examine it minutely, and whether the appeal was made upon a bill of exceptions or a transcript there would be a motion for a new trial and other motions [77] and a brief, until it reached possibly the Supreme Court; somewhere in that time Mr. Heath made the statement, "You have paid nothing on this, Mrs. Woodd, so far in the way of fees, either to Mr. Knapp or myself, and there will be a great deal more of fees that will accumulate in this case; you also owe me for a large amount of work that I did prior to the time the Douillard case came up." Mrs. Woodd asked about how much and he said, "Actually I think about \$2,000, and I think that the amount that would be due on this Douillard case, including the appeal and all, would be \$5,000, that is rough, that is \$7,000." And Mrs. Woodd

(Testimony of Daniel A. Knapp)

said she thought that was too much but she would be willing to give her Glendale property, but I told her at that time that I didn't think it wise or advisable to settle with her attorneys in that way, that I thought the best plan of getting at this and so there would be some feeling of contentment on her part, would be to take this before a court in a friendly suit and let the court decide on the amount that was due, and in the meantime we would try to attach anything we could find that she possessed, but it would be in pursuance of our action and in no other way, and we asked her what was her reaction on that and she could find no objection to it and said she was willing to pay whatever the court might determine. The next day or so after that we brought an action for \$7,000 and we also attached at that time the Glendale property, the Virginia Avenue property and all amounts [78] due and owing to Mrs. Woodd in the matter of Los Angeles vs. Winter, 444,092, in the Superior Court; and also the Yarborough note; the amount due and owing at that time being \$689.49. The amount due and owing under the Winter case being \$436.50.

In pursuance of those matters a judgment was issued on July 8, 1941, and in the matter of Hovey vs. Woodd for \$4,000 and \$20.25 costs. I was not present at that time except just as the case was closing and know nothing about how much evidence was introduced or anything else, except that there was a stipulation presented to me to sign, in which it was agreed that the amount of the judgment should be \$4,000 as between Mrs. Woodd, Mr. Heath, and myself. The Yarborough note of \$689.49 and the Winter case of \$436.50 had been determined prior to that time and the amount of the two, \$1129.99, sub-

(Testimony of Daniel A. Knapp)

tracted from that left a balance due and owing on the judgment of \$2,894.26.

Q. What judgment are you talking about?

A. I am talking about the Hovey vs. Woodd judgment, entered July 8, 1941. The Yarborough note and the Winter case, the amount that was credited to that judgment. On September 2, 1942, the Glendale property was sold under execution and in pursuance of the attachment made. The interest accruing at that time on the judgment or the \$2,894.26 was figured at 7 per cent, \$236.36, being one year and two months, and making the judgment at that time [79] \$3,130.62, with the sheriff's fee and execution at \$61, making a total of \$3,181.62, as the net judgment at that time. The Glendale property was sold for \$1,250, leaving a judgment debt of \$1,931.62. Since that time an action was brought to set aside that execution and that sale, and it was determined in favor of Hovey, it was appealed and finally the Supreme Court sustained the Hovey judgment.

Q. That suit was a suit in fraud, wasn't it?

A. Yes.

Q. And setting up the fact that this Hovey judgment was obtained by fraud?

A. Yes. The findings of fact and conclusions of law are on my desk. On April 12, 1943, a sale was made on the Virginia Street property, under execution. There was an accumulation of interest at that time of \$86.39, making a complete judgment debt of \$2,012.01. The sheriff's fee was \$25, making an entire judgment debt of \$2,037.01. The Virginia Street property sold for \$1,775, leaving an unpaid balance on the judgment of \$62.01, which still remains. All of these properties, these real

(Testimony of Daniel A. Knapp)

properties, were heavily encumbered. The Glendale property had many termites in it and would cost a great deal to repair it. In the Virginia Street property we paid Mrs. Woodd \$1,000, I don't know when, some time prior to that time, for a homestead interest which she had, which is listed in her list, and upon that basis paid the \$1,775. That is the history of the attachments and [80] of the executions and of the balance.

Q. And those sales were made by the sheriff?

A. They were made by the sheriff of Los Angeles County, after publication and all of the regulations of the law.

Q. Now, is there any other information or data that you can give to the court from which—which may enable him to arrive at a just decision on this motion that has been made or this—

A. No, to my personal knowledge I know there is as far as her estate is concerned, no part of estate belonging to her that has been sequestered for her or held back for her, and none of the moneys received from that estate belong to her, and that there is no fraud in the matter. I also know the judgment of \$4,000 included an amount that was due to Mr. Heath, I take it something over a thousand dollars, so that the net amount that was charged to her or rather entered against her for services in the Douillard case was something less than \$3,000. The Douillard case was an exceedingly difficult case, perhaps she came in a hundred times for consultations, there were four depositions in connection with it. There was a bill of exceptions that was made; afterwards I believe Mr. Clements was authorized to make another one in the place of it. He then had the transcript taken down and when

(Testimony of Daniel A. Knapp)

the case was appealed we asked for and obtained an order to prove before the Appellate Court certain errors [81] that were made. The transcript itself was lengthy and in accordance with those matters. There was a long brief, appellant's opening brief, and a final brief, and the petition to the Supreme Court. The matter of the order to prove or rather the petition to prove, required perhaps a month to go over the records and go into it exhaustively, I don't know that I ever did any more excruciatingly hard work. Owing to Mr. Heath's ill health most of it was done by myself. The cost of the brief and the cost of the depositions and the cost of the transcript and the cost of the appeal was paid by Mrs. Woodd. I think that before they were paid for by her Mrs. Knapp advanced the money for the payment of them and they were thereafter paid by Mrs. Woodd personally.

Q. Do you know whether or not Mrs. Woodd received any extensive cash in the distribution of the estate of her mother?

A. I only know the records, and the records show she received no cash whatsoever.

Mr. Bowden: Q. Well, Mrs. Woodd testified she got \$10,000.

A. Except the \$10,000. I don't mean she got no cash; I meant what she got out of the estate—aside from her legacy.

Q. You say you executed on the Virginia Avenue property? [82] A. Yes.

Q. Was there a homestead on there at that time?

A. A single woman's homestead, which as you know is \$1,000.

(Testimony of Daniel A. Knapp)

Q. And you paid that to Mrs. Woodd?

A. Yes, paid that to Mrs. Woodd, \$1,000 cash.

Q. Why did you give her \$1,000 cash at that time?

A. There was some appraisers appointed and their estimate there was that there was \$1,000 that should be paid to her. We had two appraisers.

Q. Who were the appraisers?

A. At this time I cannot recall. It is probably in the records. I tried to find that but couldn't. They would be in the files.

Q. Why did you pay her the thousand dollars?

A. Because we wanted the property free and clear from the homestead.

Q. What was the value of the property at that time?

A. Well, I think that under the theory of the appraisers, the value of the property was \$2,775, over and above the encumbrances upon it.

Q. How was the sale handled? Did Mrs. Woodd give you a release of her homestead lien before you sold under the sheriff's sale, or did you file the procedure set out in the notice to sell the homestead property? [83]

A. There was appraisers appointed; the homestead was paid, I think beforehand, but I am not sure.

Q. Under the agreement with Mrs. Woodd?

A. Yes.

Q. Who paid the thousand dollars, you or Mr. Heath?

A. Mr. Heath paid it.

Q. Now, Mr. Knapp, you filed the case of Hovey vs. Woodd on April 11, 1940, is that correct?

A. That is correct.

(Testimony of Daniel A. Knapp)

Q. And at that time did you know that Mrs. Woodd had several thousand dollars in a bank account?

A. No, Mr. Bowden. In the conversation held in our office we asked her whether she could pay any cash upon her fees or not and she very carefully at that time explained to us what she had done with her money and it appeared to us she had no cash.

Q. Why didn't you ask her for your fees when you knew she had the money?

A. I didn't know at any time anything about her money. As I explained a few moments ago, I was not a party to the Douillard estate, I was not her attorney. What Mr. Heath may have thought or what his idea may have been I don't know. I supposed she had money up until the time we had this conversation. I presumed at all times it was merely a matter of asking and we could get part or perhaps all of our fee from her. [84]

Q. You had a separate arrangement with Mrs. Woodd regarding your fees—that is separate from Mr. Heath?

A. I never had any arrangement; never told her what I would charge or anything else.

Q. I mean as to your services.

A. Well, yes. In my original conversation she came to me and asked me to help Mr. Heath, that he was not in any too good health and she would pay me what she had to pay him; the amount, she said.

Q. Did you ask her for a retainer fee at that time?

A. No. I must confess that very seldom in a case involving that type of case have I asked for fees.

Q. Was that conversation you had with her before or after the estate was distributed?

A. Well, it was after the estate was distributed.

(Testimony of Daniel A. Knapp)

Q. Did you have anything at all to do with the distribution of the estate? A. Not a thing.

Q. Did you know Mrs. Woodd before that professionally?

A. I had met her in the office casually.

Q. But you had not had any professional dealings with her?

A. None at all. She was Mr. Heath's client.

Q. And the first time you were brought into the case was in this case of Douillard vs. Woodd? [85]

A. That was the first time.

Q. Didn't you know on April 10, 1939, that Mrs. Woodd had money in the First National Bank at Fifth and Spring Streets?

A. No, I didn't know anything of the kind.

Q. Didn't you know in June or July, 1939, she got \$7,500 cash from the sale of property?

A. From the sale of property?

Q. Yes.

A. No, I don't believe it, Mr. Bowden.

Q. How much was it, do you know?

A. What year did you say?

Q. 1939; June or July. A. Oh, in 1939?

Q. Yes.

A. Well, I know nothing about any sales of property. I don't know what she sold in that time. I only have our records here. That must have been an estate matter.

Q. Well, what is the \$6,400 item that is on this sheet that Mrs. Woodd gave me, that has been marked Trustee's Exhibit 1, isn't that the sale of property in 1939?

A. This \$6,400?

(Testimony of Daniel A. Knapp)

Q. Yes.

A. Yes. Now, as far as that \$6,400 is concerned, [86] Mr. Bowden, you know I had nothing to do with that at all. Whatever that amount is it is a matter—she said it was a net amount but it is all hearsay to me.

Q. Mr. Knapp, here is what I am trying to get at—if you knew Mrs. Woodd had funds of that proportion why didn't you ask her for your fee?

A. I never knew anything about the sale of this property at that time.

Q. When did you ask her for your fees, was it April 11, 1940? A. Yes.

Q. And you had tried that case for her and done all of that work and received nothing for your fee up to that time? A. Precisely.

Q. Did you ever give her a bill or a statement?

A. No. We went over it orally.

Q. And as far as the Hovey suit was concerned, that was a stipulated judgment, was it not?

A. The only thing I know is a stipulation was given to me for signing and Mr. Heath stated there was evidence taken but I don't know anything about it.

Q. But the facts were you sued for \$7,000 and then Mrs. Woodd wrote you and Mr. Heath a letter saying she would agree to \$4,000?

A. She wrote that in September. [87]

Q. And that letter was used in the trial of the case?

A. I don't know anything about it.

Q. Now, you attached the property on the same day the Hovey suit was filed?

A. The matter of the attaching was later, Mr. Heath.

(Testimony of Daniel A. Knapp)

Q. Well, according to the records it is the same day, April 11, and the Judgment was on July 3, 1941. Did you have anything to do with the issuance of the execution?

A. Mr. Heath attended to that entirely.

Q. Did you know the sheriff's sale was not held until September 8, 1942?

A. Yes, sir. I knew that it was not held until that time.

Q. Why did you wait that long to hold a sale under the execution?

A. I don't recall. I remember a conversation with Mr. Heath in connection with that in which he stated we should be in no hurry in connection with this, that it was best that we would hear in some way from the Douillards, whom we understood might wish to enter in upon the picture in some form or other.

Q. Isn't it a fact it was then that you knew that the Douillard case had been affirmed in the Supreme Court, that is before September 8, 1942?

A. The affirming of the decision of the Supreme [88] Court had nothing to do with the taking of the execution.

Q. When was it affirmed, do you know?

A. No, I don't know.

Q. The record shows it was affirmed August 3, 1942.

A. Possibly so.

Q. And the sheriff's sale was September 8, 1942.

A. Possibly so. I know it was in September.

Q. Now, Mr. Knapp, what interest do you hold at the present that formerly belonged to Mrs. Woodd; what

(Testimony of Daniel A. Knapp)

property do you have an interest in formerly belonging to Mrs. Woodd?

A. I have no interest in any property that formerly belonged to Mrs. Woodd, save and except the Virginia Avenue property.

Q. That is the property for which she was paid \$1,000?

A. Mr. Hovey is the trustee and I think the arrangement between Mr. Heath and myself was two-fifths of that would be mine and three-fifths his.

Q. What interest does Dr. Hovey have in that property?

A. Dr. Hovey stated to me, and that is all I know about it, that there were certain sums of money due and owing from Mr. Heath but so far as any direct money that was paid to Dr. Hovey I don't think there was, unless it was trustee fees.

Q. You and Mr. Heath assigned your claim for [89] attorney fees against Mrs. Woodd to Dr. Hovey?

A. We did, with the understanding he was to prosecute it as the agent or trustee and hold it in the same way.

Q. Hold it for you and Mr. Heath? A. Yes.

Q. Under what arrangement, 50-50 basis?

A. No, as I say, if I recall the agreement it was two-fifths and three-fifths.

Q. You had a written agreement?

A. Yes, sir, with Mr. Heath.

Q. Why haven't you settled with Dr. Hovey since this judgment was obtained? Why does he still continue to hold the property?

A. I have never been in a hurry about the settlement of that and the property is unsold. When the Glen-

(Testimony of Daniel A. Knapp)

dale property was sold we did divide. This other property has never been sold and until it is sold there will be no division.

Q. Mr. Heath is now deceased?

A. Yes, and Mrs. Heath is the executrix of his estate, and I am the attorney for Mrs. Heath.

Q. What arrangement, if any, did you make with Mrs. Woodd regarding living on the property, the Virginia Avenue property?

A. She was to collect the rents and as remuneration [90] for collecting the rent she was to receive an apartment.

Q. Did you make the arrangement with her?

A. I did not. That was made by Mr. Heath.

Q. Now on April 11, 1940, when this Hovey case was filed against Mrs. Woodd did you represent Dr. Hovey in that matter?

A. With Mr. Heath, yes, sir.

Q. You were the attorney of record for him?

A. Yes.

Q. And while that case was pending you also represented Mrs. Woodd in her appeal in the Douillard case?

A. Yes, sir.

Q. And you continued to represent her right up to August 3, 1942, when the Supreme Court finally decided it against her? A. That is right.

Q. And when you made this arrangement with Mrs. Woodd to pay you and Mr. Heath \$4,000 attorney fees, did that include the attorney fees for prosecuting the appeal or were they just the attorney fees to date?

A. No, it included the fees for prosecuting the appeal.

(Testimony of Daniel A. Knapp)

Q. Do you know what proportion was allowed for prosecuting the appeal and the services which you had rendered in the trial of the action, that is, the proportion of the fees? [91]

A. I don't think that was ever discussed. It may have been. I think there was some discussion about that but I don't recall it.

Q. Do you have a copy of the Hovey complaint here?

A. No, I haven't.

Q. Didn't that complaint allege that the fees were all due and owing at the time the complaint was filed?

A. It alleged that there had been a contract made for the fees, yes, sir. I think that contract set out, I think it set out how much was to be charged on the appeal. Just offhand my recollection is that it was \$2,500. That could be an error.

Q. How much do you claim Mrs. Woodd owes you to date?

A. She does not owe me anything.

Q. Isn't there a balance due on that \$4,000?

A. Oh, you refer to the remaining judgment. That is on the judgment, but not from her personally.

Q. The judgment is against her, is it not?

A. Oh, yes. I am forgetting it.

Q. You mean you don't claim she owes you any more?

A. I am not asking for anything further.

Q. What is the value of the Virginia property now?

A. I have not the least idea, because properties are in a condition at the present time where they are liable to be of any value. [92]

Q. What is there against the Virginia Avenue property? A. I cannot tell you.

(Testimony of Daniel A. Knapp)

Q. Approximately.

A. I don't know. In fact I am utterly at a loss to understand the question but that is all right. I will answer it.

Q. Didn't I make myself clear?

A. Yes, but I don't understand why on a judgment, having been passed upon in a legal form, it makes any difference, but I will answer the question the best I can. I don't know what the amount of the encumbrance is. Incidentally this whole thing has been passed upon and is *res adjudicata*, at least as far as the State Court is concerned.

Q. So what is your recollection of the amount of the encumbrance on the Virginia property?

A. I have no recollection.

Q. Is it \$5,000?

A. I have no recollection. Mr. Heath had charge of all those and that accounts for the fact that I have no particularly recollection.

Q. Don't you claim the Virginia property is now your property?

A. Certainly but I have not investigated personally to ascertain that.

Q. Then you don't know what is against it? [93]

A. No.

Q. What is the income from it?

A. Mr. Hovey has that and has kept the account and he is receiving a sum of money for his services.

Q. Didn't Dr. Hovey have those accounts kept in your office? Didn't Mrs. Knapp keep them?

A. Mrs. Knapp may have kept them for Dr. Hovey but I have not examined them.

(Testimony of Daniel A. Knapp)

Q. How about the Glendale property, when was that sold? A. Last fall some time.

Q. How much was it sold for, do you know?

A. I cannot give you the figures here.

The Referee: I thought that was sold on execution on September 2, 1942. A. That is right.

Mr. Bowden: It was, but it has been resold.

A. Oh, I understand his question. After the execution, whether the judgment creditors sold the property, and that was sold last fall by them and the net amount I don't recall.

The Referee: Q. You stated that a while back the Glendale property was sold and divided. A. Yes.

Q. How much did you get out of that and when?

A. Well, my recollection is that I received \$1,000, [94] maybe \$1,200 or something of that kind.

Q. That would represent what per cent of the money?

A. It would be two-fifths, I think.

Q. How much was given to Dr. Hovey?

A. Dr. Hovey by an arrangement with the heirs of Mr. Heath was allowed \$1,200 on the debt that was owed by Mr. Heath.

Q. And what did Mr. Heath's estate get upon the sale of the Glendale property?

A. About \$300, I think.

Q. Well, it would really be three-fifths, wouldn't it, something more than you got?

A. Well, I don't have the exact figures here. Whatever they are, that amount was due and owing to Mr. Heath.

Q. Now, just how did you handle the homestead rights of Mrs. Woodd, that is not clear to me. You mentioned

(Testimony of Daniel A. Knapp)

two appraisers and you mentioned a sale price of \$1,775, an execution sale? A. Yes, sir.

Q. And you mentioned the fact that \$1,000 was paid by Mr. Heath to Mrs. Woodd.

A. That followed the statute and as I told you a while ago, I didn't see that. Mr. Heath did it.

Q. Did you see a thousand dollars handed to Mrs. Woodd? A. Oh, no. [95]

Q. Did you ever see a check? A. Oh, no.

Q. Was the thousand dollars paid to Mrs. Woodd?

A. I believe it was. I don't believe Mr. Heath lied about it. Mr. Heath said so and so did Mrs. Woodd.

Q. That would be when, that that was paid?

A. That I cannot state to you. I know it was about the time of the execution.

Q. What was the cost of the briefs on appeal and so forth in this suit that was paid for by Mrs. Woodd?

A. Now, this statement I am making to you is more or less of a shadowy recollection but it seems to me that the entire cost of the appeal, including the briefs, transcripts and all ran about \$387.

Q. Do you know where Mrs. Woodd got that money?

A. Yes. No, I will withdraw that. It seems to me she stated she borrowed some from the bank and some other source, I don't know where.

Q. Now, the original accounting stated by Mr. Heath of the \$7,000 or \$7,500, that included what Mrs. Woodd owed Mr. Heath and also the work on the Douillard case up to that time, and also the appeal, is that correct?

A. That is right

Q. Then that was cut down to \$4,000?

A. Yes.

(Testimony of Daniel A. Knapp)

Q. And that included the attorney fees on the [96] appeal? A. That is true.

Q. Why were the execution sales held up until after the court passed on the Douillard appeal, is there any particular reason for that?

A. The only thing I would recall in connection with it, as I have said before, it was entirely under Mr. Heath's charge, but I do recall a conversation with Mr. Heath to the effect that there might be some kind of an attack upon the proceeding and he wanted to give ample opportunity for that attack to come before there was any sale, if there was to be such an attack, and that the records were open and there was every opportunity to proceed if they wanted to.

The Referee: This matter you have referred to, I think two or three times, that is the fact of the court passing on this, would you explain about that?

A. I don't understand.

The Referee: Some fraud action or something like that. A. That was an action brought by—

The Referee: Well, we might adjourn now.

Mr. Knapp: I wish we could get through. I have some very important matters this afternoon. That was a case brought by Emile A. Douillard against Lloyd E. Smith and Florence Smith, who were the owners of the Glendale property, Melanie Woodd, Mr. Heath and myself, and the findings of [97] fact and conclusions of law, a copy of which I have in my hand, explain exactly the issues before the court and what was decided.

Mr. Crandall: I wish to offer that.

Mr. Knapp: This is an exact copy.

(Testimony of Daniel A. Knapp)

The Referee: I will mark these. This does not seem to be complete. What is the date of it and who was the judge who signed it?

Mr. Crandall: The date when the judgment was affirmed was August 17, 1945.

The Referee: August 17, 1945?

Mr. Crandall: Yes, your Honor.

The Referee: I am going to endorse that on it.

Mr. Bowden: I think that is the date of affirming the judgment on appeal.

Mr. Crandall: That is correct.

The Referee: Now do you have the date of the judgment? It is April something, 1944. I just thought I would complete it.

Mr. Crandall: The motion for a new trial in that matter was set for June 22, so it was probably about 60 days before that.

The Referee: Well, I will take it as it is and mark it.

Mr. Crandall: I will be very glad to supply that information, your Honor. [98]

The Referee: Q. What part of the thousand dollars did you put up, if any, on the homestead exemption? Was that money put up by Mr. Heath or did you put up two-fifths of it?

A. No, I didn't put up any part of that thousand dollars at all. Mr. Heath put that money up and—

Q. How much of it did he get back, if any? What I mean is, at the same time did Mrs. Woodd owe him anything; was there a contra-account?

A. I don't know enough about the transaction to answer that.

(Testimony of Daniel A. Knapp)

Q. I don't recall having heard anything about that homestead in any of the other examinations; I might have but if I did I overlooked it.

A. I know the other day when I went over it with Mrs. Woodd, the matter was brought up and \$1,000 was placed as the money received by her.

Q. What distribution have you received for your two-fifths interest in the rent on the Virginia Street property? Has that been taken care of or have you received anything?

A. I cannot tell you but my understanding from Mrs. Knapp was that she paid out practically every bit of the rent on mortgages and interest.

Q. Then the answer is you have not received anything except the payment on the mortgage and interest?

A. No. [99]

Q. She apparently is taking care of that?

A. Yes, that is true.

The Referee: Are there any other questions, Mr. Bowden?

Mr. Bowden: No, none at all.

Mr. Knapp: Could I be excused?

The Referee: Is there any further need for Mr. Knapp if this matter goes over, or does that conclude his testimony?

Mr. Bowden: I think so.

The Referee: Would you come forward again, Mrs. Woodd, just for a question or so?

MELANIE DOUILLARD WOODD,

having been previously duly sworn, under oath testified as follows:

Direct Examination

The Referee: Just have a seat, please.

Q. What was the transaction in connection with the homestead which you had on Virginia Street property, and what did you do in connection with it?

A. Mr. Heath took me to Judge Vicker's court, I cannot tell you what those proceedings were, but it was about the homestead; I had to keep off of the place, so he gave me a thousand dollars. He gave it to me in \$100 bills. He wanted to put me in the little house in the rear and I would not go there, so we went to court and I got my thousand dollars and Judge Vickers asked me if I was satisfied and [100] I said yes.

Q. Did you get your thousand dollars?

A. Yes, sir.

Q. And you got to stay there also?

A. Yes, sir.

Q. Before he was going to put you in the little house in the rear and he would not have to pay the thousand dollars?

A. Yes, sir, but I would not take it; it was right up against the garage.

Q. So you went to his office later and he gave you 10 \$100 bills? A. Yes, sir.

Q. So you must have signed a receipt.

A. Yes, sir, I did, yes.

Q. Then the costs and so forth, did you have to pay that, the transcripts and the costs and so forth?

(Testimony of Melanie Douillard Woodd)

A. I kept paying them as they came up and then one time Mrs. Knapp paid some for me and then I sold some of my furniture.

Q. What did you do with the thousand dollars?

A. I lived it up.

Q. When did you get that?

A. Before they executed on me. Just before they sold the Virginia property, by sheriff's sale.

Q. Did you put it in a bank any place? [101]

A. No, not any more. Mr. Clements took some of my money so I didn't put any more in the bank.

The Referee: Any other questions?

Mr. Bowden: Yes, your Honor, just one if I may.

Q. Mrs. Woodd, in June or July of 1939 you had around \$6,800 in the Security-First National Bank at Fifth and Spring Streets?

A. I may have had. I thought it was \$6,400 but it might have been \$6,800.

Q. And you withdrew \$5,100 on June 20, 1939?

A. Yes.

Q. And you put that where?

A. In the Federal Savings.

Q. The Federal Savings & Loan?

A. I guess so.

Q. Then you took it out of there, what did you do with it?

A. I put \$2,000 in the Postal Savings and made a \$2,000 payment on the mortgage.

Q. Did Mr. Heath and Mr. Knapp know you had these funds? A. No, sir.

Q. What did you do with the \$6,400 you got out of the Vermont Avenue property?

A. I bought Glendale, for \$1,750.

(Testimony of Melanie Douillard Woodd)

Q. That is that sheet you gave us this morning? [102]

A. Yes, it is all there.

Mr. Bowden: That is all.

Mr. Crandall: That is all.

The Referee: That is all. Any other questions or matters?

Mr. Bowden: Nothing further.

The Referee: That apparently is all we have time for. I would like to hear the trustee's summary of this case. The burden, of course, is on the objector usually in this matters of this kind. I have not read this accounting over. I believe I had two accountings, where is the other one?

Mr. Bowden: They are both there. Exhibit 1 and Exhibit 2.

The Referee: Well, I will continue this matter. I would like to get the views of these gentlemen on this evidence. When do you want to put this over to? I assume you are through with the evidence.

Mr. Bowden: Yes, sir.

The Referee: Do you want to have this afternoon to conclude it? We have another matter at 2:00, or I can put it on next week.

Mr. Bowden: I would prefer it next week.

The Referee: All right.

Mr. Bowden: Could we have it on Wednesday?

The Referee: Yes, Wednesday morning at 10:00 o'clock. [103]

Mr. Crandall: That will be agreeable with the bankrupt.

The Referee: All right. April 10, at 10:00 a. m. The witnesses are excused in the matter.

(Court adjourned.) [104]

Melanie Douillard Woodd

December 12, 1946

2:00 p. m.

Examination of Security-First National Bank,
its branches and agents.

The Referee: Are you ready now in the Melanie Douillard Woodd matter?

Mr. Clements: May I associate Mr. Bowden as co-counsel?

The Referee: Yes, yes, sir.

GERTRUDE FINLAY,

having been first duly sworn, on oath testified as follows:

Direct Examination

By Mr. Bowden:

Q. Miss Finlay, are you employed by the Security-First National Bank? A. Yes, I am.

Q. At what branch? A. Fifth and Spring.

Q. Do you work in the escrow department?

A. Yes, sir.

Q. And pursuant to an order of this court have you brought to court your Escrow File No. 129015 D?

A. Yes, sir.

Q. An escrow between M. L. Hovey and Anna L. Hovey and A. P. Garnier? [105] A. Yes, sir.

Q. These are all of the documents that you find in that escrow? A. That is right.

Q. Did you make a search for an escrow that you handled between A. P. Garnier and Carol Dumont?

A. Yes, sir, I did.

Q. Have you been able to find that?

A. I find no record of that claim.

(Testimony of Gertrude Finlay)

Q. Have any examinations been made at your other branches? A. Not that I know of.

Q. Can you do that?

A. Well, we have so many branches I don't know how we would go about it, but the head office might be able to; I will ask Mr. Corbin. Is it the same property?

Q. Yes, the same property. I will give you the legal description for the purpose of the record—Lot 11, Tract 314 in the City of Los Angeles, County of Los Angeles, State of California, and recorded in the Books of Maps, Map 14, pages 122 and 123 of Maps.

Did you handle these matters personally?

A. No, sir.

Q. Who did?

A. Mr. Dohlin. He is on vacation.

Q. And his initials? [106] A. H. A.

Q. Is he also at the Fifth and Spring Office of the Security-First National Bank? A. That's right.

Q. Miss Finlay, I notice that in this escrow there is a check in the sum of \$1,200, which apparently is a part of the proceeds of the sale, made payable to Daniel A. Knapp; can you tell us are those payments made by check usually from the bank?

A. Escrow check, yes, sir.

Q. Would it be possible for you to obtain that check?

A. Yes, it would.

Q. And also I assume the \$1,061.94 payable to M. L. Hovey and Anna Hovey was also by check?

A. That is right.

Q. Would you also obtain that check for us, please?

A. Yes, sir.

(Testimony of Gertrude Finlay)

Q. Could you leave this file with the court?

A. No, that is our permanent record. We could have a photostatic copy made of the whole thing but we will have to have that back.

Q. Will you do that, please?

A. Do you want the settlement sheet also?

Q. Yes, the whole file.

For the purpose of the record I am referring to [107] Escrow File 129015 D, Security National Bank—the Security-First National Bank, Fifth and Spring Streets, between M. L. Hovey and Anna L. Hovey and A. P. Garnier. The escrow was opened apparently on January 4, 1946, and provided for the sale of the property, real property, heretofore mentioned, by M. L. Hovey and Anna L. Hovey to A. P. Garnier, the total purchase price of \$3,000, \$2,400 cash in escrow, \$600 encumbrance of record, which encumbrance was a promissory note secured by trust deed executed by M. L. Hovey and Anna L. Hovey and Melanie Douillard Woodd, dated August 2, 1945, installments monthly, commencing September 16, 1945. I don't believe you had had time to look at the safety deposit box.

A. No, we just had a call about a quarter of 2:00.

Q. Will you have a copy of that sent to me, please?

A. Yes, sir.

Q. If you will make me a photostatic copy of the checks, front and back, that will be sufficient; and the originals will be available if we need them?

A. Oh, yes.

The Referee: May I see the file, please?

(The witness hands file to the Referee.)

The Referee: Any other questions from this witness?

(Testimony of Gertrude Finlay)

Mr. Bowden: No other questions.

The Referee: Do you want this to go off calendar?

Mr. Bowden: Yes, your Honor; I might say in regard [108] to the subpoenas for Mrs. Woodd and Alfred Douillard, I talked to the United States Marshal about an hour ago and he advised me he was unable to get into the house and unable to get anyone to come to the door and he could not serve them.

The Referee: The record may show the matter is continued to December 23, at 10:00 a. m. for the purpose of keeping it on the calendar.

(Court adjourned.) [109]

Melanie Douillard Wood December 16, 1946
2:00 p. m.

The Referee: Melanie Douillard Woodd.

Mr. Bowden: Ready, your Honor. Mr. Knapp, will you take the stand, please?

DANIEL A. KNAPP,

having been first duly sworn, on oath testified as follows:

Mr. Bowden: May we have an order excluding the witnesses at this time, please?

The Referee: Which witnesses?

Mr. Bowden: Dr. Hovey, Mr. Douillard and Mrs. Woodd.

The Referee: What do you think about the bankrupt being excluded from her own proceeding?

Mr. Bowden: Well, I doubt whether she is a party in interest. However, if the Court desires that she remain I have no objection.

(Testimony of Daniel A. Knapp)

The Referee: I believe she has a right to remain at all times. The other two witnesses may step into the Clerk's office and as soon as we are through with this witness we will call you. Dr. Hovey and Mr. Douillard; and Mrs. Woodd may stay.

Mr. Bowden: Mr. Stewart, I don't believe you are the attorney of record for the bankrupt, are you? [110]

Mr. Stewart: Yes, I represent the bankrupt.

By Mr. Bowden:

Q. Mr. Knapp, did you formerly represent Mrs. Woodd?

A. Well, I would like to ask for that question to be a little more explicit. On what matter?

Q. Any matter; any case in court prior to the bankruptcy proceedings here? A. Yes.

Q. And the name of that case?

A. Douillard vs. Woodd.

Q. Did you not also represent her in a probate proceeding? A. No, I did not.

Q. Were you the attorney for the executrix in the Douillard probate proceeding?

A. Together with Mr. Heath.

Q. Who was the executrix in that proceeding?

A. Mrs. Woodd.

Q. Then you did represent her?

A. No, I didn't represent her.

Q. Who did? A. Mr. Heath did.

Q. Yes, then you represented her when a dispute arose over that decree or the will or whatever it was?

A. The will, yes sir. [111]

Q. And there was a judgment obtained against her in that proceeding? A. Yes.

(Testimony of Daniel A. Knapp)

Q. I will try to shorten that as much as I can. I don't care to go over all of the ground. I believe it developed in the prior proceeding in bankruptcy that you had commenced a friendly proceeding against Mrs. Woodd for the payment of your attorney fees?

A. We did on certain date.

Q. And you got a judgment in that proceeding of the sum of \$4,000 or \$4,500?

A. Yes, we got a judgment, I don't know whether it was 4,000 or 4,500; I believe it was \$4,000.

Q. And in pursuance of that judgment you caused a writ of execution to be levied on that property referred to as the Hobart property, property on Hobart and Virginia Avenues? A. Yes sir.

Q. And that judgment was obtained in the name of your assignee, Dr. Hovey?

A. Dr. Hovey, for collection purposes.

The Referee: Didn't we go into all of that before?

Mr. Bowden: Yes sir; well, I can ascertain it.

Q. Mr. Knapp, do you know what the legal description of that property on Hobart is?

A. No, not at this time— [112]

Q. —the South 108 feet of the Zahn Tract, Los Angeles; does that sound like it?

A. It is the Zahn Tract.

Q. Do you know in whose name that property now stands?

A. I heard about it yesterday for the first time; not yesterday, the day before yesterday.

Q. What did you hear? That Mrs. Woodd is now the legal owner?

A. I heard that a deed had been made to her.

(Testimony of Daniel A. Knapp)

Q. Do you know the circumstances surrounding the making of that deed? A. I know nothing about it.

Q. Well, Dr. Hovey was holding that property in his name for your benefit with Mr. Heath?

A. He was not only holding it but he had assigned all right and interest to us and to the judgment and to the claim, immediately after the filing of the suit.

Q. That was a written assignment?

A. Yes. I don't like to surrender these assignments except for inspection.

The Referee: Well, there is no question but what he is the agent, and Dr. Hovey has no interest in it, is that correct? A. That is correct.

Q. By Mr. Bowden: Did you give Dr. Hovey any instructions regarding the deeding of that property to Mrs. Woodd? [113]

The Referee: May I see the assignment?

Mr. Knapp: There are three of them. I will get the one you want—this was the one to Myra C. Knapp and from Myra C. Knapp back to me.

The Referee: (Reading)

"Assignment. In consideration of \$1 and other good and valuable consideration to me in hand paid, receipt of which is hereby acknowledged, I hereby assign, sell and set over to Myra C. Knapp all my rights, title and interest in and to my claim against Melanie Douillard Woodd in the sum of \$2500 as set forth, and in my suit against her in the Superior Court of the State of California, in and for the County of Los Angeles, No. 450821, and to the judgment resulting therein to the extent of said \$2500. Dated April 15, 1940. Signed M. L Hovey."

(Testimony of Daniel A. Knapp)

And then another instrument, "Assignment. In consideration of \$1 and other good and valuable consideration to me in hand paid, receipt of which is hereby acknowledged, I hereby sell, assign and set over to Daniel A. Knapp all my rights, title and interest in the claim of M. L. Hovey against Melanie Douillard Woodd as set forth in his suit against her in the Superior Court of the State of California in and for the County of Los Angeles, numbered therein 450821, and to the judgment resulting therein to the extent of \$2500; said M. L. Hovey having heretofore assigned to me the aforesaid interest in his said claim. Dated April 20, 1940. [114] Myra C. Knapp."

By the Referee:

Q. What was the third assignment?

A. That was the other property, generally known as the Glendale property; no, that was the assignment to Mr. Heath.

The Referee: (Reading)

"Assignment. In consideration of \$1 and other good and valuable consideration to me in hand paid, receipt of which is hereby acknowledged, I hereby assign, sell and set over to Fred W. Heath all my right, title and interest in my claim against Melanie Douillard Woodd in the sum of \$4,000, as set forth in my suit against her in the Superior Court of the State of California, in and for the County of Los Angeles, numbered therein, 450821, and to the judgment resulting therein to the extent of \$4,500. Dated April 15, 1940. Signed, M. L. Hovey."

I will return these originals to Mr. Knapp.

Proceed.

(Testimony of Daniel A. Knapp)

The Witness: Pardon me a moment, and for the purpose of verification of the numbers and so forth, I am calling the Court's attention to the complaint.

The Referee: All right.

Q. By Mr. Bowden: You say you learned the day before yesterday for the first time about the property being deeded to Mrs. Woodd?

A. Deeded to anyone. [115]

Q. How did you learn that?

A. I think I had a second-hand call; I think the call came to Mrs. Knapp and then came to me. I don't know just exactly how that call came in. Well, then I made inquiries.

Q. By the Referee: That was the first time you knew Dr. Hovey had assigned it or transferred it to any person?

A. I didn't know there was any assignment or transfer of any kind.

Q. By Mr. Bowden: Do you know who made that call? A. No, I don't.

Q. Just a message left in your office, was it?

A. It probably was from Dr. Hovey to Mrs. Knapp but I could not verify that, because what I was thinking about was not so much who said it, as the fact. I was astounded.

Q. Now, Mr. Knapp, you referred to the Glendale property; I think we all know what the consists of. That was sold some time this year, wasn't it?

A. Yes, a contract was entered into for the sale the last part of 1945 and the sale was completed on January 12, 1946.

(Testimony of Daniel A. Knapp)

Q. And it was sold to a man named Garnier?

A. Correct.

Q. What was the purchase price of that property?

A. \$3,000.

Q. How much did you receive of the \$3,000?

A. I received \$1200. [116]

Q. Who received the balance?

A. The balance was to the credit of Fred W. Heath or rather to the estate of Fred W. Heath; it has never been distributed yet, for two reasons; one, the inventory in the estate of Fred W. Heath has not been completed and the other reason is there is a claim against that on the part of Dr. Hovey for moneys held in trust by Fred W. Heath for his benefit.

Q. Well, the balance of that \$3,000 was actually paid to Dr. Hovey, was it not?

A. I am sure it was.

Q. By the Referee: Or to the estate of Fred W. Heath?

A. No; not to the estate of Fred W. Heath.

Q. By Mr. Bowden: It was paid directly to Dr. Hovey? A. That is right.

Q. It wasn't—Wasn't that property worth a good deal more than the \$3,000 at that time?

A. My information is to the contrary. I had collected the rent on that property and the renters there said the property was badly infested with termites and it was run-down outside and inside and they refused to buy it under any consideration. I had a real estate agent—I own property about four blocks away from there—and I asked him to investigate and he said it was not worth, in his estimation, over 2500 or \$3,000.

(Testimony of Daniel A. Knapp)

Q. Who arranged the sale of it? [117]

A. I don't know; Dr. Hovey phoned to me and said that Mr. Garnier wanted to buy it and if I remember correctly Mr. Garnier came to the office and talked with me about it.

Q. Do you know who Mr. Garnier is?

A. All I know about him is he is a real estate dealer.

Q. He has been a friend of Mrs. Woodd for about eight years, hasn't he?

A. I never knew anything about that.

Q. Dr. Hovey is still holding this \$1250?

A. \$1200, yes sir.

Q. Is he still holding that? A. Yes.

Q. Now there was a trust deed on that property for around what? A. \$600.

Q. Who made that trust deed?

A. I cannot tell you that now.

Q. Wasn't it made by Dr. Hovey and his wife and Mrs. Woodd? A. I don't know.

Q. You don't have any recollection of that?

A. I have no recollection.

Q. Do you remember the time when they wanted to refinance this property and they borrowed this money and paid off the old loan?

A. You see it is like this: Most of the business in [118] connection with that whole thing up to the time of Mr. Heath's death was done by him, so I would not have any recollection of that phase of the situation.

Q. I think that trust deed was put on after Mr. Heath's death, wasn't it?

A. I don't know that.

(Testimony of Daniel A. Knapp)

Q. When did Mr. Heath die?

A. I think the 7th day of September, 1945.

Q. Mr. Knapp, you say that this property, this Hobart property, was being held by Dr. Hovey for your benefit and now it has been conveyed to Mrs. Woodd; do you want to make any comment about that matter?

A. Most of it would not sound good.

Mr. Bowden: You don't need to.

The Referee: I would like to get Mr. Knapp's explanation or version of it; that might clear the whole matter up.

The Witness: The property was being held for the rental and awaiting a market. It was run-down. The house was in bad shape; the trees were falling around about it and unless someone wanted that property badly we were afraid we could not get what would be desired. Dr. Hovey and I have talked about that situation a number of times. Then came the message day before yesterday that he had sold the property, and if I remember correctly, to Louis Douillard, and that Louis Douillard had sold it to Mrs. Woodd.

Yesterday I went out to Mrs. Woodd's to verify [119] that fact and find out how in the world it all came about and I took Dr. Hovey with me there. And I was simply amazed and astounded to find that any such proceeding as that took place; because Dr. Hovey had testified all the way through that he was holding the property for Mr. Knapp and Mr. Heath and had no interest in it whatsoever.

(Testimony of Daniel A. Knapp)

Q. By the Referee: What explanation did he give you, Mr. Knapp, when you confronted him with the facts?

A. Well, he said he thought, as near as I could get it, that he was selling the trustee's interest. He told Mr. Douillard he was unable to attend to the renting and to the property and he thought a younger man should take over his duties; and I asked him how it happened he took \$500, and his only explanation to me was that he needed the money and he said also at that time that his legs and hips were swelling and he was in a terrible condition physically and mentally and wanted to get out of the picture.

Q. At that time was he holding the property for you and Mr. Heath or just for you?

A. He was holding the property for me and for the estate of Mr. Heath.

Q. On a 50-50 basis?

A. No, the ratio was 5 to 3 in favor of Mr. Heath.

Q. And how was this money divided up on the Garnier property?

A. Normally I would have received \$900 and Mr. Heath [120] \$1600, but Mr. Heath owed a great deal of back rent and he agreed out of that that the back rent should be paid so I got \$300 of it over and above the \$900 and applied it.

Q. Did Dr. Hovey explain to you or give any explanation to you as to why he didn't call you when Mrs. Woodd or Mr. Douillard got in touch with him?

A. Not at all.

(Testimony of Daniel A. Knapp)

Q. Is it a fair question to ask what you said to him?

A. I don't know what I said to him. I had always admired and thought a great deal of Dr. Hovey and I just had a feeling of terrific let-down; I could not hardly talk to him.

Q. This \$500—you say he said he needed money?

A. Yes sir.

Q. And that was his explanation as to why he did that? A. That is what he said.

Q. Did he say he had that coming to him?

A. He had told me before he felt he was entitled to trustee's fees.

Q. Had an amount ever been expressed?

A. No, no agreement had ever been made upon that.

The Referee: I don't know that we have had any evidence here as to the value of this property. I notice we have a late appraisal in there, but it seems to me the property had a value of near \$10,000.

The Witness: I think there was a bank appraisal on that [121] of \$10,000, but of course there was a trust deed upon it.

The Referee: Yes, paid down to 24 or 2500, but that would make the sale something under \$3,000.

A. Yes sir.

Q. Now, he said he assumed he was only selling his trustee position?

A. That is what he said to me. That is in effect; I would not say he said that in so many words, but that was the thought. He also said he knew he did wrong, that he should have consulted me first.

(Testimony of Daniel A. Knapp)

Q. Apparently Mrs. Woodd was still living in the property, collecting the rents and taking them to Dr. Hovey.

A. That is right. All rents had been applied to the mortgage and in view of the fact she was collecting the rent she was permitted to reside in the property.

Q. When Mrs. Woodd was here she took the position that the property was absolutely hers, that apparently you or no one else had any interest in it; that it was purchased at a fair sale by her nephew and her nephew then made a deed to her, which she didn't intend to record, but merely to hold and then another circumstance arose which prompted the recording of it.

Mr. Knapp: She so stated yesterday.

Q. By the Referee: You were not here at that examination, but that is, in effect, the substance of it.

Mr. Knapp: Mrs. Woodd has, however, at all times from [122] the beginning of this matter been cognizant of the relationship of Mr. Heath, Mr. Knapp and Dr. Hovey, and listened to the testimony at all times and certainly knew what the relationship was there; I don't think she could claim to be an innocent person.

The Referee: The thing that impresses me at this point, Mr. Knapp, is that there was such a gross inadequacy of consideration in that Dr. Hovey sale that I cannot understand it, it does not make sense; especially where he didn't communicate with you.

The Witness: I don't understand it at all.

Q. By Mr. Bowden: Do you know when he made this deal with Mr. Douillard? A. No, I do not.

(Testimony of Daniel A. Knapp)

Q. I have a photostatic copy of it, Mr. Knapp; it was dated the 11th of September, 1946 and was apparently recorded on the 13th.

A. That was to Mr. Douillard?

Q. Yes.

A. When was the one that Douillard made to Mrs. Woodd.

Q. On the 12th of September, and not recorded until the 18th.

The Referee: It was the intention of the parties not to record such a deed to Mrs. Woodd, that only came about due to unusual circumstances; when the son of the nephew got into some sort of trouble and Mrs. Woodd said she thought she would [123] lose her property. I would like Mr. Knapp to remain when Dr. Hovey is examined.

Q. By Mr. Bowden: Do you remember when Mrs. Woodd came to your office to get some information regarding the objection to her discharge and you made a report, sort of an accounting for her, so she could use it on the hearing?

A. In the bankruptcy matter?

Q. Yes.

A. Oh, she did ask me to help her on that, not as an attorney, but as a friend.

Q. You furnished the figures and so forth?

A. Yes sir.

Q. Did you tell her at that time you were going to sell the Hobart property?

A. No, I did not; not at that time. Now there was a matter that came up, I can't remember when, at which time she was complaining about the conditions and the

(Testimony of Daniel A. Knapp)

repairs that were needed and I said maybe we had better sell it.

Q. Were you angry with her at the time?

A. Oh no, I never have been angry with Mrs. Woodd.

Q. By the Referee: Did you consult her about the Glendale property before it was sold?

A. No, I don't think I ever did. If I did, it would be regarding its value, but I don't recall that.

The Referee: Any other questions.

Mr. Bowden: No, your Honor. I would like to call [124] Dr. Hovey.

The Referee: All right, Mr. Knapp, unless there is something else you want to add.

The Witness: Nothing more, your Honor.

The Referee: I meant to ask one further question, I don't know that it is in the record.

Q. Is it your contention, Mr. Knapp, that Dr. Hovey was still holding that property in trust for you and the estate of Mr. Heath?

The Witness: Yes, indeed, your Honor.

LOUIS ALFRED DOUILLARD,

having been first duly sworn on oath, testified as follows:

By Mr. Bowden:

Q. What is your name?

A. Louis Alfred Douillard.

Q. You are known as Louis Alfred Douillard, Senior?

A. Yes sir.

Q. Where do you live?

A. 5255 Virginia Avenue.

Q. Do you live with your mother?

A. I live with my aunt.

(Testimony of Louis Alfred Douillard)

Q. Mrs. Melanie Woodd? A. That is right.

Q. Now, did you get a deed to that property at 5255 [125] Virginia Avenue? A. I did.

Q. How long ago?

A. I would say about three months ago.

Q. Where did you get that deed?

A. I got it from Dr. Hovey, sir.

Q. Did you go to see him or did he come to see you?

A. I went to see him.

Q. What was the occasion of your going down there?

A. I figured I could get the place. It was run-down and going to pieces and I didn't see any reason for my fixing it up for someone else; and that is not the only reason.

The Referee: Go ahead.

A. Well, there was a tree there that was going to fall either on one little house or the one next door and that tree had to come out. I talked to Dr. Hovey about it and he didn't seem to be able to take care of things like that, and that was when I approached him about buying it and that was when he agreed to sell it to me.

Q. By Mr. Bowden: Did you discuss it with anyone before you went to see him? A. No.

Q. Did you discuss it with your aunt? A. No.

Q. Not at any time, about buying it?

A. I may have discussed it with her, that I would like [126] to buy it if I could get it.

Q. What other conversation did you have with Dr. Hovey about buying it; other than what you have related? A. Nothing.

(Testimony of Louis Alfred Douillard)

Q. Well, you didn't just go there and say, "I want to buy the house," and make out a check and leave it; there must have been some conversation between you.

A. Not that I remember. I had spoken to him about the first part of the year about the place, but we had not come to any agreement.

Q. Didn't he tell you at that time he could not do anything about the property without consulting Mr. Knapp and Mr. Heath? A. No sir.

Q. Didn't you know at that time that Mr. Knapp and Mr. Heath claimed all of that property?

A. No sir, I did not.

Q. You didn't know anything about your aunt's bankruptcy? A. No.

Q. By the Referee: At the first of the year you went down to see Dr. Hovey?

A. About the first of the year, he called me up and I went down there.

Q. Did you speak to him about the property at that time? A. Yes sir. [127]

Q. Did you discuss the amount? A. No.

Q. Then he gave you the deed the day you went in?

A. I went down two or three months later.

Q. That would be when?

Mr. Bowden: September the 11th.

The Referee: September the 11th. That would be on Wednesday, apparently, and you went in alone, did you?

A. Yes, I went to see him myself.

(Testimony of Louis Alfred Douillard)

Q. Just what was said? Just tell in your own words how you happened to buy the property, fixing the amount you paid him and so forth.

A. I went down there you see to see him and I told him the place was run-down and was he going to be over to do anything about it and he was not capable of doing anything.

Q. He couldn't do anything about it?

A. No sir.

Q. What did you say?

A. I said I would like to buy it if he was able to sell it.

Q. Why did you say you would like to buy it if he was able to sell it? Did you know about Mr. Knapp and Mr. Heath? A. No sir, I didn't at that time.

Q. You knew how Dr. Hovey happened to have the property?

A. Well, I knew my aunt had had trouble; that suits had been going on for years, but I had been away. [128]

Q. Then what else did you talk about?

A. That is about all.

Q. You have not come to any consideration yet.

A. I said I would get the papers and come down and he said his wife would have to sign the papers too.

Q. What was said about the money; what it would cost? A. Oh, he said he would sell it for \$500.

Q. That is, he would give you complete title to it for \$500? A. Yes sir.

Q. And you would not go in just as a trustee, you would own it, was that it? A. Yes sir.

Q. Did he say anything about you stepping into his shoes as trustee? A. No sir.

(Testimony of Louis Alfred Douillard)

Q. Then you went back later, did you give him a check that day?

A. I went down and got him and then I had to take him over to have his wife sign it.

Q. Then you gave him a check?

A. After we went to—

Q. After they signed it? A. Yes sir.

Q. Then what is the date of the deed, Mr. Bowden, from the witness to Mrs. Woodd? [129]

Mr. Bowden: September the 12th, the next day.

Q. By the Referee: What was the occasion the next day for making out a deed to this property which you had just bought, to your aunt?

A. Well, I figured in case something happened to me I would like for her to have it; because something could happen to me. I have two children and they are taken care of by my insurance.

Q. Did you tell her at the time?

A. I didn't tell her until I had the paper made out.

Q. Where was the deed made out from you to her?

A. A man on Vermont Avenue.

Q. Not at the same place where the other one was made out? A. No sir.

Q. Did you give her the deed? A. Yes sir.

Q. Do you know why she happened to record it?

A. Yes.

Q. What were the circumstances?

A. My son got into a little trouble with the juvenile authorities.

Q. It is not my desire to go into that.

A. Well, that was what caused it.

(Testimony of Louis Alfred Douillard)

Q. She said something when she was here, that she might lose the property or something, so she recorded the deed. How [130] would she lose the property because your son got into trouble?

A. She was afraid that they might sue me or something and ask me if I owned any property.

Q. There was no money passing then from Mrs. Woodd to you? A. No sir, I just gave it to her.

Q. And this check you gave of \$500 was on your bank account? A. Yes sir.

Q. And the deposits in that account represented your earnings? A. Yes sir.

Q. None of Mrs. Woodd's money had gone into that account? A. No sir, not a dime.

Q. By Mr. Bowden: Where is your account?

A. At the Bank of America, Melrose and La Brea.

Q. By the Referee: Do you recall approximately what amount you had there?

A. I would say in my savings, around \$1800.

Q. Was it a savings or checking account?

A. I have a savings and a checking account both, I drew it from the savings.

Q. The check was on the savings account?

A. Yes sir.

The Referee: Any other questions? [131]

Q. By Mr. Bowden: Who was the check made to?

A. Dr. Hovey and his wife.

Q. For an even \$500? A. Yes.

Q. Do you know Alfred Price McNair?

The Referee: Is he the Notary?

Mr. Bowden: Yes sir.

(Testimony of Louis Alfred Douillard)

Q. By the Referee: Where did Dr. Hovey make out the deed to you?

A. We had that made out in Glendale, on Brand Boulevard, by the Notary Public.

Q. By Mr. Bowden: And that was Mr. McNair?

A. You mean make the papers out before it was notarized?

Q. Yes.

A. A friend of mine, Mrs. Murphy, made it out.

Q. Why did you go to her?

A. Because she has a typewriter.

Q. Did you tell her what to put in the deed?

A. Yes, I had the papers.

Q. Where did you get the description?

A. I had the description from the tax receipt.

Q. By the Referee: Mrs. Woodd gave you those, did she?

A. No. Dr. Hovey gave me the tax receipts.

Q. By Mr. Bowden: Do you remember the Glendale property your aunt used to own?

A. Yes, I do. [132]

Q. That was deeded to you at one time, was it not?

A. Yes, it was.

Q. How much did you pay her for it?

A. I don't remember.

Q. How long ago was it?

A. I don't remember that.

Q. She sold it to you for \$200, didn't she?

A. Possibly, I don't remember.

Q. And then bought it back again?

A. Possibly, I don't remember.

(Testimony of Louis Alfred Douillard)

Q. What was the reason for that transaction? Your aunt put the property in your name for \$200 and then you deeded it back to her later.

A. I don't remember.

The Referee: I don't remember that, Mr. Bowden.

Mr. Bowden: That came out in the former testimony. Mrs. Woodd testified she sold the property to this man, her nephew, for \$200 and then later on either she or he were dissatisfied with it and he deeded it back to her for \$200.

Q. By the Referee: And she gave him the \$200 back?

Mr. Bowden: That is what she said.

The Referee: That was after the judgment on the property or before? A. After the judgment.

Q. By the Referee: Just tell us about the circumstances surrounding that. Apparently you bought some Glendale property [133] from Mrs. Woodd. What were the circumstances surrounding that? How did you happen to do that?

A. I don't remember that, your Honor.

Q. Did you have title to some Glendale that she formerly owned? A. I believe I did at one time.

Q. Do you know how much you gave for it?

A. I don't remember.

Q. Do you know what happened to it?

A. No, I don't.

Q. Do you still have it? A. No sir.

Q. You know you don't still have it. Do you know to whom it was transferred?

A. I don't remember the circumstances of the case but I believe I did sign it back to my aunt.

(Testimony of Louis Alfred Douillard)

Q. Do you know how much she gave you for it?

A. No sir, I don't remember.

Q. Did she give you anything?

A. I could not say but I believe she did.

Q. At this time you are more or less hazy on all of the details?

A. Yes, I am. I have been told a lot of things since then.

The Referee: Any more questions?

Q. By Mr. Bowden: Were you present when Dr. and Mrs. Hovey [134] signed the deed to this Hobart property? A. When they signed the deed?

Q. Yes. A. When he signed it to me, yes.

Q. Who was present when you signed the deed to your aunt? A. No one.

Q. What Notary was it?

A. I don't remember. It was over on Vermont Avenue.

Q. You went there alone?

A. I just drove over there alone, yes sir.

Q. Who was the Notary?

A. I don't remember. It was by the Pantages Estate.

Q. W. W. Robinson, is he a real estate man?

A. He is a Notary Public.

Q. How did you happen to go there?

A. I was looking for a Notary and just stopped there.

Q. Why didn't you have the same Notary that Dr. Hovey used?

A. Because I had not had the paper made out at the same time.

(Testimony of Louis Alfred Douillard)

Q. Did you make the paper out that night or the next morning?

A. I think it was the next day, the next day or so.

Q. Who made out the second deed?

A. I had Mrs. Murphy make that when—I think Mrs. [135] Murphy made that one out for me too.

Q. Who gave her the instructions? A. I did.

Q. No one else? A. No sir.

Q. Where does she live?

A. 813 North Sycamore Avenue.

Q. Is she any relation of yours?

A. No sir, a good friend of mine for years.

Q. Is she in the real estate business?

A. No sir.

Q. And never has been? A. No sir.

Q. Your aunt was in the real estate business for quite awhile, wasn't she?

A. Not that I know of. I know she was taking it up but I don't believe she was ever in the real estate business.

Q. Who was present when Dr. and Mrs. Hovey signed the deed besides yourself? A. No one.

Q. Dr. and Mrs. Hovey, yourself and the Notary Public? A. Yes sir.

Q. What was your reason for going to Glendale?

A. Because I had to pick up Mrs. Hovey, she lives out there.

Q. By the Referee: When did you go into the Army? [136] A. The Navy, sir.

Q. Yes, the Navy. A. In 1942.

Q. Did Mrs. Woodd give you a present of a Plymouth automobile? A. Yes sir, she did.

(Testimony of Louis Alfred Douillard)

Q. When did you dispose of it?

A. Just before I went into the Service.

Q. How much did you get for it?

A. I think it was \$350.

Q. Did you put that money in the bank?

A. Yes sir.

Q. In this same account? A. Yes sir.

Q. And later when you came out did you buy a car?

A. I did.

Q. What kind of a car? A. A DeSoto.

Q. How much did you pay for it?

A. I paid \$1200 for it.

Q. This \$350, did you give it to Mrs. Woodd when you sold the car? A. I did not.

Q. That was money you either have spent or still have. You probably have spent that money, haven't you?

A. No sir, I still have it in the bank. [137]

The Referee: I just thought I might be able to find in this other transcript the reference to the \$200. Is that in the record?

Mr. Bowden: I am not sure; all the transcript was not written up; it might be in Mrs. Woodd's testimony.

Q. By the Referee: Have you ever discussed with Mrs. Woodd when you came back, when she had lost everything and didn't have anything except a place to stay, did you ever talk to her about giving her the \$350 you received from the automobile?

A. No sir, I never brought it up.

Q. And she never mentioned it?

A. No sir. I give her money to help her out off and on.

(Testimony of Louis Alfred Douillard)

Q. You have been living with her how long?

A. Ever since I got out of the Service.

Q. How long is that?

A. Approximately a year.

Q. You have been living in the property which was owned by Dr. Hovey? A. Yes sir.

Q. Were you paying any rent for your quarters?

A. Yes sir, I gave her \$20 a week for the room, to help her out.

Q. You pay that every week, do you?

A. Oh yes, sir. [138]

Q. In cash or check?

A. Just cash, when I get my check.

Q. When did you make your last payment?

A. Last Thursday.

Q. So you have been taking care of your expense as far as that goes? A. Yes.

Q. And is that, in your opinion, a fair rental for whatever that—

A. Yes sir, and I take care of the utilities, too.

Q. You pay the utilities for the whole house or just half? A. Just our side.

Q. And \$20 a week? A. Yes sir.

The Referee: There are other transcripts here. I don't know—we might just take a moment here.

Mr. Bowden: The testimony regarding the sale of the Glendale property to the witness is found on page 26. The testimony regarding the deeding of it back is on page 27, Mrs. Woodd's testimony.

(Testimony of Louis Alfred Douillard)

The Referee: I will just read this to you. This is an examination that took place on September 17, 1945.

"By Mr. Austin:

Q. But you did collect the rent on that for quite a while after it was sold to the Hovey judgment? [138]

A. When it was in the Douillard's name I sold it to my nephew; I didn't know you couldn't sell a piece of property when there was a judgment on it, but I did.

"Q. How much did your nephew give you for it?

"A. About \$200.

"Q. Was it by check or cash? "A. Cash.

"Q. Where did you put it? "A. I used it.

"Q. How long ago was that?

"A. In 1941, I think.

"Q. Then you sold it to him when there was a judgment on it? "A. Yes sir.

"Q. What judgment was on it?

"A. Hovey's judgment.

"Q. He gave you \$200? "A. About that.

"Q. Then what happened next?

"A. I guess Mr. Heath must have had that set aside; I don't know.

"Q. Did they take it up with you? Did they talk to you about it?

"A. I don't remember. Mr. Knapp, I think, can tell you.

"Q. Your nephew then transferred it back to you, [140] didn't he? "A. Yes.

"Q. What was the occasion for that?

"A. The mortgage came due and he went to war.

"Q. What did you give him for it when he transferred it back to you?

(Testimony of Louis Alfred Douillard)

"A. I gave him a couple of hundred dollars back when he transferred it back to me."

Well, that is what she testified at that time. Now I want to see something in this other—no, we didn't have the transcript written up of Mrs. Woodd's testimony. Any further questions?

Mr. Bowden: That is all. But I would like to examine Dr. Hovey now.

The Referee: All right, but I think we will take a short recess first.

(Whereupon a recess was taken.)

The Referee: Dr. Hovey, will you come forward, please?

MILES L. HOVEY,

being first duly sworn, testified on his oath, as follows:

By Mr. Bowden:

Q. What is your full name, please?

A. Miles L. Hovey.

Q. Where do you live? [141]

A. 1675 West Washington.

Q. Where is your place of business?

A. At 2320 West 11th Street.

Q. Do you have a telephone?

A. The office telephone is FAirfax 3923.

Q. Is that a prefix? A. Yes.

Q. What is your home telephone?

A. That is PArkway 0229.

Q. Do you know Mrs. Woodd? A. Yes sir

(Testimony of Miles L. Hovey)

Q. How long have you known her?

A. A number of years, I don't know exactly.

Q. What is your business or occupation?

A. I am a chiropractor.

Q. Do you know Mrs. Woodd's nephew, Louis Alfred Douillard, Sr., the gentleman who is sitting back there?

A. Yes sir.

Q. How long have you known him?

A. About a year.

Q. Did you know him before he went into the Army?

A. No.

Q. Do you know Mr. Daniel A. Knapp?

A. Yes.

Q. How long have you known him?

A. I don't know; 10 years or more. [142]

Q. Doctor, I think you testified once before in this proceeding that you sued for Mr. Knapp and Mr. Heath against Mrs. Woodd and recovered a judgment and had the Glendale property and the Hobart property executed on in pursuance of that judgment?

A. Yes sir.

Q. Do you know who owns the Hobart property now?

A. No, I don't.

Q. That is at Virginia Avenue and Hobart.

A. That is Douillard—I don't know.

Q. And you and Mrs. Hovey made a deed to Louis Alfred Douillard, Sr., on the 11th day of September, 1946, did you not? A. September, that is right.

Q. How did you happen to make the deed to him?

A. Well, I felt incapable of taking care of the property any more and he lives there and I thought he could handle it better.

(Testimony of Miles L. Hovey)

Q. How much did he pay you for it?

A. He paid me \$500.

Q. How much was the property worth in September?

A. I don't know.

Q. Did you make any inquiries as to the value of it prior to the sale? A. No.

Q. Did you ask him to buy it or did he ask you? [143]

A. I asked him—we talked it over together, but I don't know who first spoke of it.

Q. When did you first discuss selling the property to him?

A. I talked to him about it, about taking care of the place in February, 1946.

Q. When did you talk about selling it to him first?

A. It must have been in August some time.

Q. Was that before or after you testified here?

A. After.

Q. You talked to him about it, about taking it over and buying it?

A. About buying my interest in it.

Q. You remember testifying here that you owned that property and claimed to be the owner of it?

A. Yes sir.

Q. You were the owner of it, were you not?

A. That ownership—I still don't know whether that is a true deed to me or an interest in trust of the Heath Estate that I was selling, or the actual title to the property.

Q. Haven't you ever discussed it with Mr. Knapp?

A. No, very little.

Q. Well, you have talked to him about it, haven't you?

A. I talked to Mr. Heath.

(Testimony of Miles L. Hovey)

Q. Well, after Mr. Heath's death, you talked to him [144] about it, didn't you? A. Yes sir, I did.

Q. And you talked to him about this sale, didn't you?

A. No, I never did talk to him about it.

Q. Did you ever tell him you had sold it?

A. No.

Q. Why didn't you?

A. I don't know why I didn't.

Q. Do you remember testifying here to the effect that the title to the property was in your name and was to be held by you until Mr. Knapp's and Mr. Heath's fees was finally settled and they were to get part of the proceeds and you were to get part of the proceeds too?

A. Yes sir.

Q. And yet you went out and sold this property without consulting Mr. Knapp? A. Yes, I did.

Q. Why did you? A. I have no idea.

Q. By the Referee: Was it to defraud him out of any money? A. Oh, no.

Q. Did you give him the \$500?

A. No, I didn't.

Q. When the Glendale property was sold did you get any money out of that? A. Yes sir. [145]

Q. How much?

A. I don't remember exactly; I believe around a thousand dollars.

Q. Is that claimed by the estate of Fred W. Heath?

A. That was out of that part.

Q. I see—do they make a claim for it now?

A. Yes, I believe so.

Q. But you have not paid it to them?

A. No.

(Testimony of Miles L. Hovey)

The Referee: It looks as though you got whatever you got your hands on in this deal. Let's go into this a little further.

Q. By Mr. Bowden: Have you still got the money you received out of the Glendale property?

A. No.

Q. What did you do with it?

A. I used it in my living and in my business.

Q. How did you regard it or record it on your books of account?

A. Why, it is just the amount that was due to me from Mr. Heath.

Q. What was that?

A. That was for the sum of money he had owed me for a number of years.

Q. How long?

A. I believe he owed me that about 12 years. [146]

Q. By the Referee: That paid your account, did it, and balanced you up with him?

A. The 1200 did, yes sir.

Q. By Mr. Bowden: What portion of the money was allowed to the fees or expenses in the suit of Hovey vs. Woodd?

A. I don't know. Is that the \$1200, the fee?

Mr. Bowden: I don't know. I am asking you.

A. I don't know.

The Referee: Apparently whatever Mr. Heath, with whom the witness had dealings, owed Dr. Hovey was paid. The account was balanced up by the sale on January 12, 1946 to Mr. Garnier of the Glendale property. That is behind us.

(Testimony of Miles L. Hovey)

Mr. Bowden: I want to know if the witness allowed any portion of that \$1000 to the Knapp—Woodd case, in which he testified heretofore that he was going to get paid out of the proceeds of this property.

The Witness: No.

Q. By Mr. Bowden: None of it? A. No.

Q. Had you received anything on account of your services in that Knapp vs. Woodd case?

A. That thousand dollars was owing to me by Mr. Heath and the \$200 was the part I was to receive for my services in that case.

Q. That is the case in which you were the assignee and sued Mrs. Woodd? [147]

A. That is the way I understand it.

Q. By the Referee: Then that paid it up?

A. Yes sir.

Q. By Mr. Bowden: Then Mr. Knapp didn't owe you anything at that time? A. I don't know. We had made no arrangements at all about that.

Q. Who arranged for the sale of the Glendale property?

A. Mr. Knapp and I and a real estate man.

Q. Who was the real estate man? A. Garnier.

Q. And he is the one who purchased it?

A. Yes.

Q. How did you happen to meet Mr. Garnier?

A. I don't recall. I believe he came to me to get a splinter out of his finger or something.

Q. Didn't he say Mrs. Woodd had sent him?

A. I don't remember. I believe he knew her and she sent him to me.

(Testimony of Miles L. Hovey)

Q. What was the sale price of the Glendale property?

A. I don't recall, exactly, I think \$3,000.

Q. It was worth a good deal more than that, wasn't it? A. I don't think so.

Q. Did you investigate the value of it?

A. Yes sir.

Q. Who set the price on this property in this sale? [148]

A. Mr. Garnier made an offer for it.

Q. To you?

A. To me, and I don't know whether he talked to Mr. Knapp directly or whether I talked to Mr. Knapp, I don't recall.

Q. By the Referee: You say you don't know whether he told Mr. Knapp or you told him?

A. I don't recall.

Q. Do you think you did tell Mr. Knapp or you didn't? A. Oh yes, I think so.

Q. What did Mr. Knapp say about the deal?

A. I don't recall.

Q. Did he reject it or approve it?

A. He approved it.

Q. That is the \$500 sale to Mr. Douillard?

A. No; I didn't talk to him about that at all.

Q. Oh, you are talking about the Glendale sale?

A. Yes.

Q. By Mr. Bowden: Did you talk to Mrs. Woodd before the Glendale property was sold? A. No.

Q. Or after it was sold?

A. Not regarding the property.

Q. Did you pay her any money?

A. I did not; no.

(Testimony of Miles L. Hovey)

Q. Tell us, doctor, about the sale to Mr. Douillard of [149] the Hobart property. Was a discussion had regarding the sales price of it?

A. We were discussing the run-down condition of the place and I thought he could take care of it and handle the interest, the trust interest, better than I could; I was not capable of taking care of it either mentally or physically any more.

Q. By Mr. Bowden: You mean you said you were turning it over to him to hold for Mr. Knapp?

A. Until whatever settlement they would make.

The Referee: Settlement of what property?

A. The Virginia Avenue. Mr. Knapp not having talked to me or me to him in regard to it—I felt the place was deteriorating and it should be in someone's hands who could look after it.

Q. What portion of the property did you think should go to Mr. Knapp and what portion to Mrs. Woodd?

A. I didn't think Mrs. Woodd had any interest in it.

Q. Then who had the interest in it?

A. The only interest was in Mr. Heath's estate and Mr. Knapp.

Q. Did you communicate with anyone representing Mr. Heath's estate in connection with the sale?

A. No.

Q. When did Mr. Knapp, as far as you know, find out that you had sold the property? [150]

A. Well, he called me and asked if it had been sold on last Saturday.

Q. What did you tell him?

A. I told him yes, it had.

(Testimony of Miles L. Hovey)

Q. What else did you say?

A. He wanted to know if any money had changed hands and I think I said I received \$500 in all.

Q. What did he say?

A. Well, he said I had no right to sell it.

The Referee: All right, Mr. Bowden.

Q. By Mr. Bowden: Is that all he said? What did you say to him after he told you you had no right to sell it?

A. Well, it sounded reasonable and I admitted I should have talked to him about it but I had failed to do so.

Q. Why did you sell it for \$500? Don't you know that property is worth close to \$10,000?

A. It was not the sale of the property—Yes, I guess it is a legal deed; I don't know.

Q. Didn't you go to a real estate office and have the deed drawn? This real estate office, did you go to it?

A. We had the deed notarized.

Q. Where? A. Out on Glendale Avenue.

Q. Why did you go out there?

A. That is close to where I used to live.

Q. Well, you live on Washington. [151]

A. Yes sir.

Q. Why did you go to Glendale?

A. Because I used to live over there.

Q. And you took Mrs. Hovey over there, did you?

A. Yes.

Q. By the Referee: Did you take Mrs. Woodd?

A. No.

(Testimony of Miles L. Hovey)

Q. Did you tell Mr. Douillard you were selling the property to him subject to Mr. Knapp's rights and subject to the rights of the Heath estate?

A. He knew it.

Q. No, what did you tell him?

A. I don't remember telling him in so many words that it was subject to their legal claim but I thought he knew that.

Q. Why should he know about their interest in it? Did you tell him, in effect, that they owned the property and that you were just holding it for them?

A. I don't recall the specific instance of saying that. I took it for granted he would know that.

Q. How much is—if you did have a discussion on that or if he did ask you what the interest of the Heath estate and the interest of Mr. Knapp was in it, what would you have told him; how much is their interest in it?

A. I don't know. They had a fee that they were holding the property for, and I don't know. I never did know [152] just what it was. I think it is a division of five-eighths by three-eighths or something of that kind.

The Referee: Three-fifths, I think it was. Maybe it was five-eighths. Well, if he had paid that amount then there would not have been any question about this, If he had paid that amount to them? If they had gotten their money out of it, there would not have been any question about their interest in it; is that what you mean to imply?

A. Yes sir.

Q. But you didn't know how much they had coming?

A. No, I didn't.

(Testimony of Miles L. Hovey)

Q. Did you know approximately; how many thousands of dollars?

A. The original suit for fees I believe was something like \$7,000 but they reduced it to something like \$4500.

Q. Then on the Glendale property, they got something over \$2,000?

A. Yes, then they should have some balance due.

Q. Was it your instructions that if they were paid that then you could release the property? Is that what you were referring to?

A. The property is subject to their fee.

Q. I know, but if you had the exact amount of their fee figured out, then was it your understanding that you could have released the property if that fee was paid?

A. Yes sir. [153]

Q. If Mr. Douillard had come in with that exact amount of money to have paid them, then there would not have been any sort of question here?

A. Not that I know of. That is right.

The Referee: Any other questions?

Q. By Mr. Bowden: How did Mr. Douillard pay the \$500 to you? A. He gave me a check for \$500.

Q. Do you know what bank it was on?

A. No, I don't think so.

Q. What did you do with that money?

A. I put it in my bank account.

Q. Do you still have it there?

A. No, I don't. I have some of it.

(Testimony of Miles L. Hovey)

Q. By the Referee: Well, Dr. Hovey, didn't you imagine that some time or other Mr. Knapp would have found out about this?

A. Yes, I was in a bad mental and physical condition at that time and I didn't think very clearly about those things until a short time ago it began to worry me a little. But at the time the chief thing I had in my mind was that I must get someone more responsible than myself to take care of that place; I felt my inability to do it and I was unable to do anything about it, as a matter of fact, I was not able to take care of my own work at all.

Q. If you are correct in your theory that you were [154] only transferring your trusteeship there, why did you take any money from Mr. Douillard? He was only assuming a duty, work to be performed.

A. I thought I was entitled to about that much for the care and worry and frequent calls and one thing and another that had interrupted my business and given me a great deal of mental distress.

Q. All of that had been settled and you had received \$200 to pay you for your trustee work; you have not been called to court since then, have you, since January 1946? A. That was on the Glendale property.

Q. How much were you to get out of the other property, the one we are talking about now?

A. There had nothing been said definitely.

Q. Have you ever made a bill for it?

A. No. I should have talked to Mr. Knapp about it, I realize that now, but I had made no arrangements with him about the place since Mr. Heath's death.

(Testimony of Miles L. Hovey)

Q. By Mr. Bowden: Mrs. Woodd has been living in that property ever since you have had it?

A. Yes.

Q. How much rent have you collected?

A. The total rent, I don't recall exactly, but I believe her apartment was 20 or \$25 and the other places, I don't remember exactly.

Q. She didn't pay you any money though for living there, [155] did she?

A. She paid—no, I don't remember that she paid me. She did the collecting and the payments on the mortgage for me.

Q. Did her nephew, Mr. Douillard, pay you any rent for living there? A. No.

Q. By the Referee: What do you mean by \$25 for her apartment?

A. I think that was about the value of it.

Q. You were not asked the value, you were asked what was collected.

A. I don't recall exactly what the rents were.

Q. Did you collect any rent on their apartment?

A. No, not that I remember.

Q. By Mr. Bowden: Did she bring the money to you from the collections?

A. As a rule. Sometimes I asked her to take it to the bank instead of bringing it to me.

Q. That arrangement went on for a long time, nearly two years? A. Since Mr. Heath's death.

Q. And you don't know how much rent you collected out there?

A. No, I don't. It just covers the payments on the mortgage. [156]

(Testimony of Miles L. Hovey)

Q. When she would bring it to you what would you do with it?

A. I would usually write a check and send it in to the bank on the payment.

Q. By the Referee: How much are the payments on the mortgage?

A. They were around \$35, I believe.

Q. A month? A. Yes sir.

Q. By Mr. Bowden: Well, you would give Mrs. Woodd a check and she would go up and make that payment, wouldn't she; you didn't send it direct?

A. I sometimes sent it direct.

Q. But when she came in with the money you would give her a check and she would go pay the payment, that was the usual procedure?

Q. By the Referee: She would collect the rent and come to your office with it and you would make a check for the payment, \$35, and she would take it to the bank?

A. Or I would mail it.

Q. By Mr. Bowden: Do you have a record of what she brought to you every month?

A. I think I have.

Q. As a matter of fact, doctor, she never did pay you any more than sufficient to pay the mortgage payments did she, it was never higher or lower, it was always the same [157] amount, wasn't it?

A. Yes sir, the rent has always been the same price.

Q. By the Referee: How were the taxes paid?

A. The taxes were paid the same way; I paid the taxes and occasionally Mrs. Knapp paid the taxes.

Q. You mean you would advance the money yourself?

A. Yes, to pay the taxes.

(Testimony of Miles L. Hovey)

Q. Just a minute. I don't believe you advanced any money yourself.

A. No, the amount of the taxes has always been accumulated. There was a small amount. The place has always just paid its way.

Q. You didn't accumulate it, did you? Mrs. Woodd would accumulate it then she would bring the money in to you and you would write a check?

A. Mrs. Knapp would draw the check.

Q. You mean after Mr. Heath's death?

A. I believe the taxes was brought to me once that way; I think that is right.

Q. The amount of money was brought in for the taxes by Mrs. Woodd? A. Yes.

Q. Then you sent the check? A. Yes sir.

Q. By Mr. Bowden: When were the last taxes paid?

A. The last taxes that I paid? [158]

Q. Any taxes. The last ones that were paid on that property.

A. I don't remember, I think that that is not long ago.

Q. Who has the tax bill?

A. I got the tax bills.

Q. The last one? A. Yes.

Q. Did you pay that?

A. No, I think I sent that to Douillard to pay.

Q. And the one before that you paid?

A. I paid the one before that.

Q. Where are your old tax bills now?

A. I have them at home.

(Testimony of Miles L. Hovey)

Q. Can you think of any other conversation you had with Mr. Douillard when you made this deed, other than what you have told us?

A. There was one occasion on which we were talking about the lawn and the trees; the trees fell down in a windstorm and were condemning the house and he thought they should be removed and I told him if I was physically able I would do it myself, but I don't know what he has done.

Q. Do you contend now that you were tricked into giving that deed to Mr. Douillard?

A. I don't think so.

Q. Don't you know you gave him a grant deed that conveyed to him all of your interest in the property for \$500? [159]

A. Well, I gave him a deed as it is of record there.

Q. You knew what you were signing when you signed that deed, didn't you? A. Yes.

Q. It was properly made up, was it not?

A. Yes, I think so.

Q. Did you ask any questions about it when it was made up and signed before the Notary?

A. No, I was anxious to get out.

Q. Well, you read the deed after it was made up, didn't you? A. Yes, I read it.

Q. Then why do you say you were conveying some trustee interest?

A. Well, it was in my name that way and they knew that as well as I did; better maybe.

Q. How did Mr. Douillard know that? You said he knew that; how do you know he did?

A. Well, I don't know, I just considered that he knew about it.

(Testimony of Miles L. Hovey)

Q. You thought because he was Mrs. Woodd's nephew and lived there he should know all about it?

A. Well, he lived there and I assumed he knew.

Q. Mrs. Woodd sent him down there to you, didn't she?

A. I called him to come down because he is the only person I knew who could do some cleaning on the roof and the pipes. [160]

Q. By the Referee: How did you know there was anything wrong with the roof and the pipes, did Mrs. Woodd tell you?

A. No; that was the house where I lived.

Q. And that was what brought the subject up?

A. Yes sir, the maintenance of the place, because I was protesting that I had to pay for the cleaning on the house that I paid rent on; but I had to pay it or let it go.

Q. That was the property you lived in?

A. Yes sir, and then we got to talking about the maintenance of the other place.

Q. Did you tell him you had \$500 of trustee fees you wanted paid and that is why you fixed the price of \$500?

A. No.

Q. Did you tell him anything about the trustee fees that you felt you should get?

A. I don't recall talking to him about the trustee fee at that time; that was in February, but later on he felt I would be entitled to take at least \$500 for the care—

Q. Mr. Douillard told you that? A. Yes sir.

Q. He brought up the subject of the \$500? You said Mr. Douillard said he felt you were entitled to \$500?

A. I believe it was him who said he thought I was entitled to a reasonable fee. I think I mentioned the \$500.

(Testimony of Miles L. Hovey)

Q. What did he say to that?

A. He said of course he thought I was entitled to that [161] or more.

Q. Then he gave you a check for \$500?

A. Not at that time.

Q. How long after?

A. Oh, a month or two.

Q. Then, so at the first conversation, it was that you said you thought before you transferred the property you were entitled to a \$500 trustee fee?

A. On that place, yes sir.

Q. Then about a month after that he brought the \$500 check in to you?

A. It was some time the 1st of September.

The Referee: I see. After that then he brought the \$500 in to you? A. Yes sir.

Q. And you signed the deed?

A. That is right.

Q. So from that you are of the opinion that he must have known you were only transferring your trustee position? A. That is what I thought.

Q. This other arrangement which you had with Mr. Heath and Mr. Knapp in connection with the property and their amount that they were to receive, that was all oral, was it? A. That is right.

Q. None of it was in a written contract?

A. That is right. [162]

The Referee: Any other questions?

Mr. Bowden. That is all.

The Referee: Now, Dr. Hovey, do you have anything else to say about this matter? Any further explana-

(Testimony of Miles L. Hovey)

tion or anything? The Court is anxious to get the full picture if that is possible.

Q. Well, I tell you: The case has been a source of extreme worry and distress to me from the first. I am a chiropractor, not a real estate man, and I accepted the assignment from Mr. Heath because of our many years of friendship and other business deals together, and I did all my business with Mr. Heath and through him and felt a considerable personal loss and somewhat at mental loose ends when he died. And I someway didn't feel the same freedom of expression with Mr. Knapp; but I should have gone in and talked with him, I feel now.

I had somewhat had a physical breakdown in August and did a lot of things that was rather astounding to find myself doing mentally, and I was very anxious to get the responsibility of everything off my shoulders that I could, with the sole exception of my own work, which was burdensome enough.

The Referee: Well, in the first presentation of this case, you know all of the feeling—you might say—in this case. A. Yes. [163]

The Referee: The creditors were very insistent in their position, that this property in your name was merely being held by you for Mrs. Woodd, possibly there was some additional interest that Mr. Knapp or Mr. Heath had in it, but not the whole property, and they prophesied in their presentation of the matter that it would be only a few weeks after the bankruptcy was completed that this property would go back to Mrs. Woodd. I didn't agree with that theory at that time.

The property didn't go back to her direct as far as anyone could tell on the record; it went to the nephew

(Testimony of Miles L. Hovey)

and then it was only through a very unusual situation that the deed to Mrs. Woodd was recorded; it seems that the son of the nephew got into some trouble and she and he thought there might be a judgment against him and it might affect Mrs. Woodd's property, so she recorded the deed, taking it out of his name.

That is just what the creditors prophesied in this matter; that as soon as the bankruptcy was over this property would go back into Mrs. Woodd's name; and that is where it is now. You, yourself, admit it would have gone there, if she or her nephew had been able to come in and pay you the amount of Mr. Heath's and Mr. Knapp's balance.

The Witness: Well, as to that I would not know; that is up to the attorneys and their willingness to settle their fee. I don't know what their fee was, in fact, I don't know that the litigation is yet concluded; I don't know. [164]

The Referee: What litigation do you refer to that is not completed?

The Witness: I don't know, but there was other legal claims against Mrs. Woodd's property.

The Referee: By whom?

The Witness: By Mr. Knapp and Mr. Heath.

The Referee: Of what sort?

The Witness: I think they handled some other notes.

Q. By the Referee: How much was that?

A. I don't know. I don't know what that was.

Mr. Bowden: That is all.

The Referee: I believe this matter should be referred by the trustee under Section 29 to the United States Attorney. Let him take this matter over from here on.

(Court adjourned.) [165]

Melanie Douillard Woodd December 23, 1946

First Meeting of Creditors:

Examination of Witnesses

The Referee: Melanie Douillard Woodd.

Mr. Austin: Ready, your Honor.

The Referee: Are there any claims in this reopened estate?

Mr. Austin: Yes, your Honor; the claims of the Douillards and also of Puissegur.

The Referee: Whom do you desire for trustee?

Mr. Austin: Mr. Helmick, your Honor.

The Referee: Are there any objections to John M. Helmick as trustee? Of course he has not acted as trustee before in here—he can get his bond in within five days.

Mr. Austin: Is it appropriate at this time to request the appointment of an attorney for the trustee?

The Referee: Do you desire any further examination in this matter?

Mr. Bowden: Yes your Honor; I have Mr. Garnier subpoenaed and also we have the bank records here.

The Referee: How long will that take?

Mr. Bowden: I think one-half hour.

The Referee: I believe then I could call these other proceedings first.

(Whereupon this matter is continued down the calendar.) [166]

The Referee: Now the Melanie Douillard Woodd; are you ready in that matter, Mr. Bowden?

Mr. Bowden: Ready, your Honor.

The Referee: All right; let's go ahead with the examination of the witnesses.

Mr. Bowden: Mr. Garnier, will you please take the stand?

A. P. GARNIER,

being first duly sworn on oath, testified as follows:

By Mr. Bowden:

Q. Mr. Garnier, where do you live?

A. My office and my home is at 405 Beverly Boulevard.

Q. What is your business or your occupation?

A. Real estate and nursery.

Q. Do you know Mrs. Melanie D. Woodd?

A. I do.

Q. How long have you known her?

A. Seven or eight years.

Q. You have had business transactions with her over the last seven or eight years?

A. Yes.

Q. Now did you have a business transaction with Mrs. Melanie Woodd regarding a piece of property in Glendale consisting of a house and lot? [167]

A. No, not with her.

Q. Did you have a transaction?

A. I had with Mr.—I bought it from Mr. Hovey.

Q. Well, you discussed it with Mrs. Woodd, didn't you?

A. No sir, I did not. Mrs. Knapp called me and told me about it.

(Testimony of A. P. Garnier)

Q. What did she tell you?

A. To come to the office, that they had something to talk about; that they wanted to sell a property and then they referred to the fact that Mr. Hovey was the owner.

Q. Had you known Mr. Knapp before that?

A. I had.

Q. How long had you known him?

A. Three or four or five years.

Q. And you knew him through Mrs. Woodd?

A. Yes, well now, I'll tell you; Mrs. Woodd took me to Mr. Heath when he was living, and Mr. Knapp had the same office.

Q. Did you know anything about this property prior to the time Mrs. Woodd called you?

A. I sold it to her.

Q. You sold it to who? A. To Mrs. Woodd.

Q. How long ago did you sell it to her?

A. Four or five years ago.

Q. Then you purchased this property in your own name, [168] did you? A. Yes.

Q. What was the date of that?

A. In April some time.

Q. 1946? A. That's right.

Q. Or January, which?

A. April, I believe; we have the escrow papers.

Q. The escrow, Mr. Garnier, shows December the 27th of 1945.

A. Do you want to check on that, Mr. Rhode?

Mr. Rhode: The escrow is the best evidence.

Mr. Bowden: It is signed by you on December 27, 1945. I will show it to you.

(Testimony of A. P. Garnier)

The Witness: Well, if that is the date—I cannot recall all of the dates. It is my signature so that must be correct.

Q. By Mr. Bowden: Do you know to whom the \$600 was paid, regarding the first encumbrance?

A. I agreed to pay that, that was on the property, I think it was \$700 when I took it over.

Q. Who held it?

A. The Security Bank, and I took it subject to that payment.

Q. Did you negotiate that loan?

A. No, I did not.

Q. What was the value of that property at the time you [169] opened this escrow?

A. I paid around \$3300 for it, whatever the escrow is.

Q. How long have you been in the real estate business?

A. 30 years right here in Los Angeles. I buy and sell property.

Q. That property was worth a good deal more than \$3300 at that time, wasn't it?

A. That is the price they asked me for.

Q. I didn't ask you that. The property was worth a good deal more than that, was it not?

A. Well, I buy the property for what they want to sell for

Q. Well, you are a real estate man, what do you think it is worth?

Mr. Rhode: I object to that line of questioning. He paid what they asked for it.

(Testimony of A. P. Garnier)

The Referee: Well, do you have an opinion as to the value of that property, other than what they asked for it?

A. Do I have to answer that question?

The Referee: Yes.

A. Well, naturally, I purchased it for a profit.

The Referee: I appreciate that.

A. And when one purchases for a profit you never know until you have the property in your possession just what it is worth. I sold it for a profit.

Q. By the Referee: What did you sell it for? [170]

A. \$8,750.

Q. When did you sell it?

A. 60 or 90 days after that. A man who lived close by came to my office and asked for it, asked me if it was for sale and I told him yes; and he asked what I wanted for it and when I said \$8,750, then we made the deal. He is a barber.

Q. By Mr. Bowden: How much money did you pay outside of the escrow when you purchased this property?

A. I bought it all in the escrow.

Q. How much did you say you paid?

A. I paid \$3300.

Q. It only shows you paid \$2700.

A. Well, subject to that encumbrance, then there was escrow charges and I had refinancing papers and all those taxes and one thing and another. I have a list of it; in fact, it ran more than 3300 when I got through with it.

Q. What did you sell it to Mrs. Woodd for in the first instance? A. Around 34 or \$3500.

Q. What year was that?

A. Five or six years ago.

(Testimony of A. P. Garnier)

Q. In other words you bought it back from her for less than—

A. I didn't buy it from her; I bought it from Mr. Hovey.

Q. Well, Mr. Hovey, then. [171]

A. There is a big difference.

Q. When was the last time you had a transaction with Mrs. Woodd prior to December, 1945?

A. Prior to what?

Q. December 27, 1945.

A. What was that transaction?

Q. What was the last transaction you had with her—

A. Oh, prior to that time?

Q. Yes.

A. Well, I imagine this Glendale property was the last time; when I sold it. I don't recall the date when I sold that.

Q. Haven't you talked with Mrs. Woodd about this property in the last year?

A. Oh, yes; I see her one in awhile and know something about this case in a general way.

Q. How often have you seen her in the last year?

A. Maybe once a month or once in two months or once a week; I couldn't tell you. She is just like any client or anyone I do business with.

Q. What was your business with her in the last year that caused you to see her once a month or once a week?

A. I don't know that there was any particular business.

Q. What would you talk to her about when you saw her?

A. What do you talk to anyone about? That is how I do my business, talking to people and finding out—[172]

(Testimony of A. P. Garnier)

Q. Well, did you talk to her about any property in the last year? What did you talk about to her in the last year? A. Well, what do you say to any body?

Q. Will you answer the question?

A. I don't see how I can answer differently. She was my client and I meet people every month or whatever it happens to be and we talk about different subjects and different deals.

Q. In other words, you have answered as fully as you can?

A. Sure. I don't know how to answer any differently from that.

Q. Who did you sell this property to?

A. The man was a barber and he lived a couple of doors from the Glendale property.

Q. Dermont? A. That is it.

Q. What is his first name? A. I don't know.

Q. By the Referee: When did you first talk to him about selling the property to him?

A. He came into my office.

Q. When was that?

A. I don't know the date.

Q. How long before you went to escrow did you talk to him? [173]

A. I kept the property 60 or 90 days, and then this barber who lived two or three doors away was going to be put out from where he lived and he knew the tenants in there and he came into the office and asked if I wanted to sell the property.

Q. That was 60 days after you bought it?

A. About that, 60 or 90 days.

(Testimony of A. P. Garnier)

Q. You didn't talk to him before you got the property about selling it?

A. Oh, no, I never knew the man.

Q. By Mr. Bowden: Where was the escrow handled?

A. The California Bank at Eighth and Vermont, Escrow No. 8634.

Q. And the date of it?

A. I don't know; it may be that was in April—yes, that is the one that was in April.

Q. By the Referee: After this sale did you have any dealings of any kind with Mrs. Woodd?

A. Not a thing.

Q. No cash transaction? A. Not a thing.

Q. She didn't get any part of this 250 per cent profit?

A. No, sir, that is my business.

The Referee: The circumstances were so unusual, the price and the immediate sale, that the trustee probably wanted to go into that to see if it was a sale, in effect. [174] A. No sir.

Q. You were dealing for yourself at all times?

A. Yes, sir. As I said, Mrs. Knapp called me up and I went to the office and talked to Mr. Knapp and Mrs. Knapp, I recall that because they have a large picture of Christ on the balcony and I admired it, and they told me they wanted to sell the lot right away; then they told me Mr. Hovey was the owner of the property and I went to Mr. Hovey; I never had met him before the escrow.

Q. Now you stated you had known Mrs. Woodd and you made a remark that you knew about this case or had followed this case, what did you hear about that?

A. Well, in a way—I just knew—

(Testimony of A. P. Garnier)

Q. Whatever you heard you heard from her?

A. Well, I suppose.

Q. And Mrs. Knapp called you to come in and see about selling the place for them, or buying it?

A. Yes, to buy it, and I bought the place myself.

Q. At first they wanted you to sell it as a real estate broker?

A. I don't think so. They asked if I wanted to buy it and I said yes.

Q. You are a real estate broker?

A. I am a real estate broker but I buy and sell things myself.

Q. Did you talk to Mrs. Woodd about the sale. [175]

A. No, she had nothing to do with it.

Q. I didn't ask if she had anything to do with it.

A. I never talked to her about it, no, sir.

Q. You never mentioned it to her, that you had bought it?

A. Well, maybe I talked to her afterward, but at the time I purchased the property she did not tell me anything about it nor did I talk to her about it. I had all my dealings with Mr. Hovey.

Q. This amount you got in connection with the sale, that all came from the escrow, did it?

A. Oh, yes, sir, sure. I would not buy anything any other way.

Q. And the check for the balance came to you?

A. Yes. If you want to see my deposit, I will be glad to show it to you.

The Referee: Shortly after that did you draw out any substantial sum of money?

A. Well, I have quite a little bit of money in the bank, so—

(Testimony of A. P. Garnier)

Q. Did you draw out any cash or any—

A. Well, I always write checks.

Q. Well, I mean—the main question is, did any of the money go in any way, shape or form, directly or indirectly, back to Mrs. Woodd?

A. No, sir. [176]

Q. By Mr. Bowden: Did any of that money from the last escrow go to Mr. Hovey or Mr. or Mrs. Knapp?

A. No, sir. All that money is mine.

Q. Did Mr. Dermont have a real estate broker in connection with the same?

A. No, sir, he did not; he made the deal direct.

Q. Mr. Garnier, I will show you a photostatic copy of the escrow in which you purchased that property; I am reading from the body of it—

“We hold a \$750.00 promissory note executed by M. L. Hovey and Anna L. Hovey and Melanie Douillard Woodd.”

Do you know anything about the making of that promissory note or trust deed?

A. No, I know nothing about it.

Q. Do you know why her name was on it?

A. No, I don't know a thing about it. I had to agree in purchasing that property to sign an agreement with the Security Bank that I would be responsible for that note; they have a little piece of paper about that long (indicating) and they would not sell it any other way.

Q. You had to assume it? A. Yes.

Q. But you know nothing about the original ones on the trust deed?

A. No, sir, I know nothing about it. [177]

The Referee: That is all.

R. E. GARCIA,

being first duly sworn, on oath testified as follows:

The Referee: What do you have here?

Mr. Bowden: I just want to introduce a photostatic copy.

Q. By Mr. Bowden: You are from the Security First National Bank? A. I am.

Q. And you have brought your bank records, pursuant to a subpoena? A. I did.

Q. Do you have photostatic copies of the escrow between M. L. Hovey and Anna L. Hovey and A. P.

A. I have.

Mr. Bowden: The witness has handed me an escrow sheet No. 129015-E; instructions dated December 27, 1945 between Anna L. Hovey, M. L. Hovey and A. P. Garnier, beneficial statement dated January 4, 1946; credit slips in connection with said escrow and Security National Bank check dated January 20, 1946, in the sum of \$1,051.94, made payable to M. L. Hovey and Anna L. Hovey and endorsed by Anna L. Hovey and M. L. Hovey. The Security First National Bank check dated January 28, 1946 in the sum of \$1,200.00, made payable to Daniel A. Knapp, endorsed Daniel A. Knapp, and Myra C. Knapp. We offer this as Trustee's next exhibit. [178] You have found no bank account since 1939, have you?

A. Here is one that was closed out in September, 1939; April, 1939 and March, 1939.

Q. These are photostatic copies of the account back in 1939? A. Yes, sir.

Mr. Bowden: I would also like to have these marked, if the Court please.

(Testimony of R. E. Garcia)

The Referee: We will put them all together.

Mr. Bowden: That's all.

Mrs. Woodd: If your Honor please, I would like to clarify that deal of M. L. Hovey's.

The Referee: Then just come up here and take the stand.

MELANIE DOUILLARD WOODD,
being first duly sworn, on oath testified as follows:

The Witness: It seems like they are misleading you a little on this, your Honor. Mr. Garnier sold me the property in 1939 from Robert Cate, he was the agent. I think I met him and his mother then; then after that Mr. Garnier sold a trust deed note I held on my nephew, George Douillard at Bell Gardens; that is where he met Mr. Heath; I took him to the office because this boy had run a bill on me. Then Mr. Garnier sold my inherited property on Vermont and Washington to Mr. Vissalough. That was the last sale from me. Now this \$1,000.00, they are in litigation with Mr. Clements over the 1116 North Hobart, they are in the Supreme Court [179] now. Well, Dr. Hovey had to raise \$900.00 for a bond on the appeal, and Mrs. Knapp had to put up the bond; and she put up her property as the bond; and Dr. Hovey borrowed \$1,000.00 on the Virginia property, taking a second mortgage, making it all one mortgage, and when the nephew told you the other day that he went to Glendale, Mrs. Garnier lives in Glendale and Dr. Hovey is in Los Angeles, so it does look bad. Here is the deed that was drawn up; this is the second deed, the first deed was drawn up by Mrs. Betty Murphy and the boy took a taxi and went there, but he did not tell you because he was not

(Testimony of Melanie Douillard Woodd)

asked. These are the second set of deeds. The first ones didn't go through because Mr. Dick said the first ones were not right.

The Referee: This deed was dated September the 11th, 1946 and recorded September 13th.

Mrs. Woodd: That is right. That is when I took in the first deed to Mr. Dick and he said the first ones were not right.

The Referee: What happened to the first deeds?

Mrs. Woodd: He destroyed them. He threw them away.

The Referee: I will mark these.

Mrs. Woodd: You see, Mr. Bowden, I have lost on a good deal of this,

The Referee: Now this first deed, apparently, didn't prove adequate?

Mrs. Woodd: Yes, sir, he went to MacNair, I think you [180] call it, and that is why the boy didn't recognize it.

The Referee: That one bears date of September the 11th. Well, I will mark this.

Mrs. Woodd: Maybe they were both made the same date, I don't know. I took it down to have it recorded but instead of doing that I went straight to Mr. Dick because I knew it was something dealing with the mortgage.

The Referee: Now, about this very sale, Mrs. Woodd, do you have any further information in connection with it?

Mrs. Woodd: Which one?

The Referee: The \$3,300.00 deal that was resold at 250 per cent profit.

Mrs. Woodd: No, sir.

(Testimony of Melanie Douillard Woodd)

The Referee: You didn't know that had been sold to him at all?

Mrs. Woodd: No. This last one, I don't know at all.

The Referee: But you know the broker?

Mrs. Woodd: Yes, sir.

The Referee: Did you know it has been sold to him?

Mrs. Woodd: Mr. Garnier?

The Referee: Yes.

Mrs. Woodd: Oh, yes, I knew that. Mr. Knapp told my lawyer and I.

The Referee: How did he happen to go in to see these people?

Mrs. Woodd: Oh, I might have told him it was for sale, [181] I see him every once in awhile.

The Referee: How did you know it was for sale?

Mrs. Woodd: Mr. Knapp said it was for sale and Mr. Heath had said it was for sale, time and time again.

The Referee: Weren't you interested in getting as much out of it as you could?

Mrs. Woodd: No, no, it was not mine.

The Referee: Well, it was paying your bills, was it not?

Mrs. Woodd: I don't know about that. They took the property away from me in 1943 by a Sheriff's sale. Mr. Clements and Mr. Douillard had the right to buy that too; why didn't they?

The Referee: Nobody could buy it from them unless they would sell; they could not be forced to sell, could they?

Mrs. Woodd: No, no. Would you like to know about the trees? I brought the receipt.

(Testimony of Melanie Douillard Woodd)

The Referee: I don't know that that is in issue here.

Mrs. Woodd: No. It just caused me to go to Mr. Knapp, and he said not to annoy Dr. Hovey any more with that.

Q. By Mr. Bowden: Mrs. Woodd, you said something about you had to sign a promissory note for \$1,000.00, that they had to have some money on an appeal?

A. Yes, sir.

Q. Tell us about that.

A. All I know is I went up there and Mr. Dick said I had to come in; maybe I had to sign something or assure the [182] title.

Q. No. Now, at the time you signed the note, giving the Security-First National Bank a trust deed on that property, the property stood in the name of Mr. and Mrs. Hovey and had been sold at a Sheriff's sale and you no longer had any interest in it, is that right?

A. I had no interest; it was sold to Dr. Hovey, his wife was not on there.

Q. Anyway, Dr. Hovey executed the note; his wife joined him and you also put your name on that. Just tell us about that.

A. I cannot tell you. You would have to call in the bank for that.

Q. You know whether you went up there and signed a promissory note?

A. Did I sign a promissory note?

(Testimony of Melanie Douillard Woodd)

Q. According to the paper. And you said this morning that Dr. Hovey and Mr. Knapp and you had to have some money for an appeal. A. Yes, sir.

Q. And that Dr. Hovey had to put \$900.00 up and that Dr. Hovey called you in.

A. No, Mr. Dick called me in.

Q. Who is Mr. Dick?

A. In the loan and trust department. I had a friend with me. Mr. Dick can tell you why I signed. [183]

Q. By the Referee: Now, this deed, you say there was some question about this deed, and you went back to the bank and the bank made up a deed.

A. Not this one. The one he had Betty Murphy make.

Q. How long before was that?

A. It must have been a day or two.

Q. And who said it was not proper for recordation?

A. Mr. Dick.

Q. Who is he?

A. He is in the loan and trust department of the Security Bank.

Q. Where is the other deed?

A. I think I destroyed those. They were no good.

Q. How many weeks or days had he had the other deed? A. I think just a day or two.

Q. And you took it down to the bank?

A. Yes, sir.

Q. That was before it was recorded?

A. That is right.

(Testimony of Melanie Douillard Woodd)

Q. And when you took it to the bank, you showed it to Mr. Dick? A. Yes, sir.

Q. And he told you there was some defect in it?

A. That's right.

Q. So a second deed was made?

A. That's right. [184]

Q. Did they prepare it?

A. I asked him for a couple of blanks and he said, "Take these and have them filled out somewhere," and I said, "I don't know where to go," and he said to his secretary, "Fill in the legal for her," he said, "We can do that for an old friend."

Q. So he filled in the legal one to Mr. Douillard, and one from Mr. Douillard back to you?

A. That is right. That is when Mr. Douillard said he went to Vermont and had the first one notarized, and then everything would be straight.

Q. He got two blanks when you went in there?

A. Yes, sir.

Q. One to go to the Hovey's? A. Yes.

Q. And you got another form?

A. Yes, Louis had made the one, the one that Betty Murphy made, and he said he did that in case he got killed or anything I would have the property.

The Referee: Any other questions?

Mr. Bowden: That is all.

The Referee: This matter may go off calendar. [185]

Melanie Douillard Woodd

January 20, 1947

Order to Show Cause on Various Parties;
Order to Show Cause on Bankrupt;

Examination of Witnesses.

The Referee: Melanie Douillard Woodd.

Mr. Bowden: Ready, if the Court please. There are two matters, if the Court please, one is to revoke the discharge of the bankrupt, and the other is an order to show cause to determine the rights of the trustee and various other parties in certain real property. I might say at the outset that the facts in both instances will be the same and I wonder if there will be any objection to considering both matters at one time, or whether we should proceed with the motion first.

The Referee: I have no thought in the matter. What do counsel desire?

Mr. Bowden: Mr. Knapp, would you—

The Referee: What do we have here?

Mr. Bowden: A petition to revoke the bankrupt's discharge and an order to show cause pertaining to the right of the bankrupt and other parties in and to various properties.

The Referee: Well, if they are kindred, whether they are heard together or not, we might assume that any matters which are pertinent or any testimony in the other hearing [186] will be considered in that matter.

Mr. Bowden: That is what I have in mind. Is that satisfactory to you, Mr. Knapp and Mr. Stewart?

Mr. Knapp: That is satisfactory.

Mr. Bowden: Mr. Knapp, will you take the stand, please?

DANIEL A. KNAPP,

being first duly sworn, on oath testified as follows:

Q. By Mr. Bowden: Mr. Knapp, you are one of the respondents in this proceeding, are you, that is, referring to the order to show cause? A. Yes, sir.

Q. And you are representing one of the respondents, Mrs. Edna D. Heath as executrix of the estate of Fred W. Heath, deceased?

A. Yes, and I would like to state in addition to the answer "Yes," that I am the attorney for the estate.

Q. In other words, you represent Mrs. Heath in the probate proceedings in the Superior Court of Los Angeles County? A. Yes.

Q. Now you formerly represented the bankrupt herein, Mrs. Melanie Douillard Woodd, prior to the filing of her bankruptcy proceeding? A. Yes, at one time.

Q. In what capacity did you represent her?

A. In the case of Douillard versus Woodd. I, with [187] Fred W. Heath, was her attorney.

Q. Now, Mr. Knapp, briefly, and would you tell us what was involved in the Douillard versus Woodd action?

A. It was a case where \$7,500.00 was claimed by the Douillards, plaintiffs in that case, and against Melanie Douillard Woodd, on the ground that she had promised or orally contracted to pay them that sum of money if they would not contest her mother's will.

Q. Now, the Douillards and Mrs. Woodd were related, or are related, are they not?

A. Well, my—the pleadings so stated, that the Douillards were her brothers, and Puissiguer was her nephew and another of the plaintiffs, the party plaintiff was her niece, I think.

Q. In other words, it was a sort of a family squabble?

A. True.

(Testimony of Daniel A. Knapp)

Q. Mr. Heath represented Mrs. Woodd and you later became associated with Mr. Heath in that litigation; is that correct?

A. That is right, with this addition, that Mr. Heath had been her attorney for a good many years.

Q. Yes, he formerly represented her and then you and he represented her? A. That is right.

Q. What was the final result of the Douillard versus Woodd case? [188]

A. The judgment went for the plaintiff and the final order of the court was the same.

Q. Approximately what date was that?

A. I could not tell you.

Q. Could you tell us by referring to your file?

A. No, I haven't that here.

Q. You can furnish that information to us later from your file? A. Yes, I think so.

Q. Would it be the month of August, 1941 or '42?

A. Well, it would be more likely to be 1942, I would say.

Q. And the amount of the judgment was \$7,500.00 plus costs and interest, was it? A. Yes.

Q. Now, did you and Mr. Heath sue Mrs. Woodd for attorneys' fees? A. Yes.

Q. When was that suit commenced?

A. I think the 10th day of April, 1940.

Q. 1940? A. Yes.

Q. And that suit was brought in the name of M. L. Hovey, was it not? A. Right.

Q. What was the reason for that? [189]

A. Purely for convenience as the collector.

(Testimony of Daniel A. Knapp)

Q. Had Mrs. Wood paid you any money up until the time of the filing of that suit? A. No.

Q. Had you ever rendered a statement for your services to her?

A. No, that was not rendered up to the time of the conference.

Q. Well, what conference, a conference with Mrs. Wood?

A. A conference with Mrs. Wood on the 10th of the month.

Q. 10th of August, 1942?

A. No, the 10th of April, 1940.

Q. Your suit was filed in August.

A. The suit was filed April the 10th, 1940, I think.

Mr. Bowden: My error, I read August, it was April the 10th that the suit was filed, in 1940?

A. That's right.

Q. And what was the conference with Mrs. Wood about that day, without divulging any confidential information?

A. The substance of the conversation was that Mr. Heath and I went over our services, the condition of the case and the probability that it would require an appeal and much more services and that she had not paid anything and it was necessary to figure out what she would pay, and that Mr. Heath and I thought our services were worth contemplatively [190] on the contract to carry on the appeal, together with the work done in the past, \$7,000.00; she thought that was too much and so stated and then we said we would bring a friendly suit, using Dr. Hovey as the plaintiff in this case, and let the court decide how much the amount should be.

(Testimony of Daniel A. Knapp)

Q. And you brought a friendly suit?

A. And the suit was brought that day.

Q. How much did you sue for?

A. I think \$7,000.00.

Q. And the total amount involved in the litigation was \$7,500.00?

A. Yes, sir, but this included a great deal of services in the past, and besides that Mrs. Woodd stated she didn't care how much she expended; that the case was so unjust as against her that the amount involved in service was not an item that she was considering.

Q. Did you carry on the appeal in the Douillard versus Woodd case? A. Yes, we did.

Q. And when was that appeal decided?

A. That, I think, is what you had reference to awhile ago. I think about 1942.

Q. I understood that was the date of the original judgment; when was the original judgment in the case of Douillard versus Woodd?

A. The judgment was rendered—I think, as near as [191] I can recollect, about the 22nd day of April, 1940.

Q. But you had received notice from the court that the judgment was going to be rendered in favor of the Douillards and against Mrs. Woodd prior to April the 25th, 1940, had you not?

A. I don't know whether there was a minute order entered at that time or whether there was a—at any rate, I had a strong feeling there was going to be a judgment rendered.

Q. Well, there was a card sent out prior to the conference had with Mrs. Woodd, wasn't there?

A. There could be.

(Testimony of Daniel A. Knapp)

Q. When did you obtain your judgment against Mrs. Woodd, that is, when did Dr. Hovey obtain his judgment?

A. On the 3rd day of July, 1941, and entered on the 8th day of July, 1941.

Q. And the appeal was decided August, 1942?

A. In the Douillard case, and I am not sure of the date of the appeal but I think it was about that time.

Q. The judgment of Hovey against Mrs. Woodd was a stipulated judgment, wasn't it?

A. I was not there at the time but the records of the case that came to my attention were to the effect that it was stipulated that the judgment would be \$4,000.00.

Q. By the Referee: Who was there, do you know, representing you? [192]

A. Mr. Heath, I think I have a copy of it here.

Q. You see you testified that you were going to let the court go into the matter and fix the amount of the fees?

A. That is right. That was my idea at the time. Mrs. Woodd came forward at that time and she was willing to pay \$4,000.00 and it was brought to the attention of the court, as I understand. I have a copy of the judgment that was rendered. (Hands instrument to counsel.)

Mr. Bowden: Thank you.

The Witness: Now, I would like to correct that testimony: Mrs. Woodd came forward at the time of the trial of the case.

Q. By Mr. Bowden: Who represented Mrs. Woodd in that proceeding? A. Mr. E. D. Martindale.

Q. He is an attorney? A. Yes, certainly.

(Testimony of Daniel A. Knapp)

Q. Where was his office at that time?

A. I don't know.

Q. Do you have a copy of his answer there or Mrs. Woodd's answer? A. No, I don't think I have.

Q. Would you look and see, Mr. Knapp, and I will take the address off of that.

A. It is possible. No, I have no copy of the answer here. [193]

Q. Do you have any other pleadings that might show the address? A. As to what point?

Q. Any pleading or order that might show the address of Mr. Martindale at the time of the filing of the answer or shortly thereabouts?

A. No, I have no other pleading showing the status of Mr. Martindale.

Q. Was there any answer interposed in the action?

A. Yes, there was an answer.

Q. You don't know where your copy is?

A. No, I don't know where it is now, no.

Q. Now your judgment or Dr. Hovey's judgment was entered against Mrs. Woodd on July the 8th, 1941?

A. Correct.

Q. And thereafter was an execution issued?

A. There was.

Q. What date was that?

A. I have a notice, by virtue of a writ of execution issued and delivered and annexed as a true copy this 9th day of February, and the writ of execution shows the 9th day of October, 1942.

Q. The execution was originally issued July the 17th, 1941, isn't that correct?

A. I think it was, but I am not sure.

(Testimony of Daniel A. Knapp)

Q. And the property was executed on when? [194]

A. As I stated—

Q. That is the execution sale you are referring to now, is it not? A. That is right.

Q. What is the date of that?

A. The 15th of October, 1942.

Q. So apparently there was nothing done between July the 17th, 1941 and October the 15th, 1942.

A. Correct.

Q. And the final decision in the Douillard case was August the 3rd, 1942; that is, the appeal was decided then? A. Somewhere in there.

Q. What property was executed on in that action that belonged to the bankrupt here? A. Two properties.

Q. Two pieces of property?

A. Yes, not on one execution. One was the south 108 feet of Block 8 Zahn Tract.

Q. That is the property described in Paragraph VIII of your and Mrs. Heath's answer to this order to show cause. Is that correct?

A. May I withdraw my testimony? I have got hold of the wrong execution.

Mr. Bowden: Certainly, Mr. Knapp. We want the facts, we don't want to mislead the Referee.

The Referee: We will continue this matter to 2:00 [195] o'clock this afternoon.

Mr. Bowden: You can get those facts for us by 2:00, we will go over it again then.

Mr. Knapp: I have an alias execution—

Mr. Bowden: Just a minute. The Referee has continued this until 2:00 o'clock. Let's have those dates at

(Testimony of Daniel A. Knapp)

2:00 o'clock, Mr. Knapp, and we will correct it accordingly.

If the Court please, Mr. Douillard is here, he is not under subpoena; will the Court instruct him to return?

The Referee: Is he desired?

Mr. Bowden: Yes, sir; will the Court instruct him and all of the other witnesses?

The Referee: Yes, all of the witnesses will return at 2:00 o'clock.

(Court adjourned at 2:00 o'clock, at which time it was convened and the following proceedings were had:) [196]

The Referee: Now, the Melanie D. Woodd matter.

Mr. Bowden: Mr. Knapp, will you take the stand, please.

DANIEL A. KNAPP,

having been previously sworn, on oath testified as follows:

By Mr. Bowden:

Q. Mr. Knapp, I asked you this morning, I believe, if you had a copy of the answer filed by Mr. Martindale in the Hovey versus Woodd matter.

A. I don't think I have any copy, I could not find one in the record.

Q. I will show you the opening brief of Emile A. Douillard versus Lloyd E. Smith, District Court of Appeal, Second Appellate District, State of California, Second

(Testimony of Daniel A. Knapp)

Civil No. 14754; do you recognize that as being one of the briefs filed in that particular action?

A. Yes, sir.

Q. And on page 5 the statement is made as follows:

"Answer"—referring to the answer filed by Mr. Martindale. "Mr. Martindale's office address is that of the defendant Fred W. Heath and Daniel A. Knapp, and his telephone number that of Daniel A. Knapp." Is that a true statement?

A. I don't know anything about that.

Q. You wouldn't say it is not true?

A. I would not say except that he was not in that office or had that telephone number. [197]

Q. But he might have had that telephone number and address on his stationery?

A. I don't know anything about it. I might add to the Court that Mr. Martindale and I were not even on good terms.

Q. And you have made the statement you cannot find a copy of that answer? A. I cannot.

Q. Mr. Knapp, I believe we could take as correct, as to the point of the date of the execution sale on the Glendale property, I believe that was July the 17th, 1946; that is, the execution, July the 17th, 1946, and the sale under the execution, September the 8th, 1946?

A. The answer was issued on the 17th day of July, 1941 and the sale on the 8th day of September, 1942.

Mr. Bowden: I am sorry, I said 1946. I meant 1942.

Q. By Mr. Bowden: Now, when was the execution issued on the Hobart property? When I refer to the Hobart property, I am referring to the property described

(Testimony of Daniel A. Knapp)

in the trustee's order to show cause in this particular hearing.

A. My records do not show when the execution was issued on the Hobart property.

Q. Do you know when the sale was? A. I do.

Q. In your answer you say April the 12th, 1943. Is that correct? A. Correct. [198]

Q. Now, on the Hobart property, Mrs. Woodd had a homestead recorded.

A. Yes, a \$1,000.00 homestead.

Q. What became of the homestead?

A. Why, it is on record.

Q. How was the property sold?

A. There was an appraisement.

Q. You followed the Code procedure? A. Yes.

Q. How much was paid to her out of that execution sale?

A. It is rather difficult for me to say. The execution sales and attachments and everything was carried on by Mr. Heath. My understanding was she received \$1,000.00.

Q. From what source was the \$1,000.00 obtained?

A. I don't know, I am sure.

Q. Wasn't there a trust deed put on the property and she was paid out of the proceeds of that trust deed?

A. I don't recall that; as I said, that was under the charge of Mr. Heath and I don't recall it.

Q. Did Mrs. Woodd get \$1,000.00 in cash out of that homestead?

A. I could not tell you, that was under Mr. Heath's duties and I didn't pay any attention to it; I could not tell *tell*. I can only state it was my understanding she was paid \$1,000.00 but it is hearsay.

(Testimony of Daniel A. Knapp)

Q. Mr. Heath handled all of these matters up to that [199] time, did he not?

A. All that had to do with the attachment, execution, and so forth.

Q. And who handled the records on the attorneys' claim against Mrs. Woodd?

A. I don't understand your question.

Q. How were the books kept, so that you and Mr. Heath would know how much Mrs. Woodd owed, which one of you?

A. The only time there were any books, to my knowledge or any amount was gone over, to my knowledge, was at the initial conversation when it was gone into in detail.

Q. Well, if any money was paid to Mrs. Woodd, or any charges made to her account, who would handle those?

A. It was gone over in detail by Mr. Heath at that time.

Q. Did Mr. Heath keep track of his own charges as far as Mrs. Woodd was concerned?

A. My recollection is he had the charges there.

Q. Now you are the attorney for Mrs. Fred W. Heath? A. Mrs. Edna D. Heath.

Q. Who is the widow of Mr. Fred Heath?

A. Yes, sir.

Q. You are the attorney for the widow in that estate?

A. Yes, sir.

Q. In that procedure you filed a will, did you not?

A. Yes, sir. [200]

Q. Take a look at this and tell me if this is a photostatic copy of the will you filed in that proceeding.

A. Well, you have a copy there; I suppose it is. I think it is.

(Testimony of Daniel A. Knapp)

Q. Well, if there is any question about it we can get the original.

A. I suppose that is a photostatic copy, I think it is the will.

Q. Can you read this writing?

A. With difficulty.

Mr. Bowden: I thought you could read it better than I can, for the purpose of the record.

A. Well, I don't know.

Mr. Bowden: Well, let's see if we can read it into the record. This is on the stationery of Fred W. Heath, Attorney at Law, 424 Black Building, Michigan 6929, South Pasadena, Los Angeles, California, April 22, 1943.

"Dear Edna: Every night when I go out to my lonely bed I feel less assurance than I did the previous night that I will be here when morning comes, so just to be prepared—I want you to have whatever there is belonging to me when I die. I make no provisions for the children as I know you will. Mrs. Wilger is about paid up. I get 10 per cent of the amount for which she sells her house, less \$1,000.00 advanced. Santa Rosa Mining Company owes me \$5,000.00. I have a [201] one-half interest in any money collected on the Lundquist Kruse judgment, about \$2,500.00. I have a one-half interest in the Annie Walterson judgment, now about \$8,000.00 that's due. Mrs. Woodd owes me about \$1,000.00, represented in the Hovey versus Woodd judgment. The balance due on the M. J. Nevaless mortgage note, about \$125.00. The Masten mortgage note is all mine. The \$250.00 gold piece I expected to give to Katherine. Roland H. Wiley, Las Vegas attorney, has a new set of Nevada Statutes

(Testimony of Daniel A. Knapp)

worth \$50.00, which belong to me. No strings on it. Other odds and ends amount to practically nothing.

"If I should forget to wake up some morning, it will be a nice way out as I am burden enough while I am able to be my own nurse and valet. Don't spend any money on a funeral—buy war bonds instead. I want you to execute my will, without bond.

"Dated April 22, 1943. Fred W. Heath, Testator. Filed January 23rd, 1946, J. F. Moroney, County Clerk, H. L. Doyle, Deputy.

"Admitted to probate February 1, 1946. Attest: J. F. Moroney, County Clerk, by H. Roberts, Deputy, No. 251455."

Mr. Bowden: We offer this in evidence, if the Court please.

Q. By Mr. Bowden: Now, when was Dr. Hovey instructed [202] to sell the Glendale property?

A. Either in the last part of 1945 or the first part of 1946. I might explain, however, that the statement as being instructed to sell the property is somewhat misleading.

Mr. Bowden: Just a minute, please.

The Referee: Oh, no, just let him go ahead and explain.

The Witness: Mr. Garnier came to my office and wanted to buy the property and that was in the last part of December, 1945 or the first of January, 1946, and I conferred with Mrs. Heath and she said whatever I wanted to do was all right; so I looked over the matter and told him that we would sell and I prepared a deed

(Testimony of Daniel A. Knapp)

and had Dr. Hovey sign it. If I remember correctly, it was to be placed in escrow.

Q. Did you make any inquiry as to the value of that Glendale property prior to that time?

A. Oh, yes, indeed I did, half a dozen different sources.

Q. Did you have any conversation with Mr. Garnier as to what you wanted for it? A. Yes.

Q. What was the conversation?

A. Well, my present recollection is that the purchase price was to be thirty-four or thirty-five hundred dollars or something in there, and he was to assume the trust deed, leaving a note of something in the neighborhood of \$2,400.00.

Q. Do you know that he sold that property shortly thereafter for \$8,000.00, \$8,750.00? [203]

A. No, that is all news to me.

Q. Didn't you know at the time you talked to Mr. Garnier that the property was worth in excess of \$8,000.00?

A. I had no such idea. The property as I saw it and knew it was termite infested, it was on low ground and the tenants were constantly complaining about it, it was run down and all and I thought Mr. Garnier was giving me a good price; that was prior to the time prices went up with a bound.

Q. When was it that you had this conversation with Mr. Garnier?

A. I think the last of December or the first of January.

(Testimony of Daniel A. Knapp)

Q. 1945?

A. Yes, I think so, I am not sure. I will go further for the record—I really thought Mr. Garnier was sticking his neck out.

Q. It didn't turn out that way, did it?

A. I don't know; he never told me.

Q. Tell us what became of the proceeds of that sale, Mr. Knapp.

A. There was \$1,600.00 turned over to me, \$400.00 on account of the debt to Mr. Heath.

Q. Which left \$1,200.00 on account of your interest?

A. And \$1,200.00 is still in the hands of Dr. Hovey.

Q. Was there only \$2,400.00 paid into that escrow? [204]

A. That is all. That is what was paid into the escrow, yes, sir. That is my recollection.

Mr. Bowden: May I have a photostatic copy of that escrow, if the Court please?

(The Court hands instrument to counsel.)

Mr. Knapp: I might say to clarify this, your Honor, that Dr. Hovey's claim is that \$1,200.00 was due and owing to him from Mr. Heath.

Q. By the Referee: Did you have anything owing still when you got the \$1,200.00?

A. Oh, yes, your Honor.

Q. How much?

A. You see the \$1,200.00 didn't represent what was paid on my fees.

Q. What did it represent?

A. Well, wait a minute—there was \$400.00 of the money that I received that was upon the debt for the rent.

(Testimony of Daniel A. Knapp)

Q. That is, that Mr. Knapp owed you that, or rather that Mr. Heath owed you?

A. Yes, Mr. Heath owed me.

Q. That was money of his that was being paid?

A. That's right.

The Referee: Being paid to you?

A. Yes, sir.

Q. And the \$1,200.00 was to apply on your fee?

A. That is right. [205]

Q. Was anything else owing to you after that?

A. What is that?

Q. Were you to get anything else after that?

A. No arrangement for it at all, I thought we owned this property.

Q. In what proportion?

A. Five and three. Five in favor of Mr. Heath—

The Referee: Five-eighths and three-eighths?

A. Yes, sir.

Q. Then after the judgment was secured by Dr. Hovey, Mr. Heath says here that, "Mrs. Woodd owes me about \$1,000.00 represented in the Hovey versus Woodd judgment." Let's see if we carry the same proportions—when was this payment, Mr. Bowden, that you have referred to?

Mr. Bowden: The check to Daniel A. Knapp is dated January 28, 1946 in the sum of \$1,200.00.

The Referee: If Mr. Heath had \$1,000.00 owing, if that would represent—

Mr. Knapp: There was \$1,200.00 in the estate and \$1,200.00 went to Mr. Knapp, of which \$400.00 was for rent.

(Testimony of Daniel A. Knapp)

The Referee: I see. Now, after that judgment was secured, Mr. Heath says this: "Mrs. Woodd owes me about \$1,000.00 represented in the Hovey versus Woodd judgment." Now, Mr. Heath had, after the judgment was recovered in Hovey's name, had about \$1,000.00 coming from Mrs. Woodd and you had something less than he had at all times? [206]

A. May I ask when he said that arose?

The Referee: I am just reading this. I have not a clear picture of it.

Mr. Knapp: It must have been some arrangement between him and Mrs. Woodd, I am quite sure it didn't have any reference to the judgment or to the fees.

The Referee: That is the wording of it, "Mrs. Woodd owes me about \$1,000.00 recovered in the Hovey versus Woodd judgment." I think there is only one Hovey versus Woodd judgment.

Mr. Knapp: That is right.

The Referee: Now, in connection with that, Mrs. Woodd owed him \$1,000.00. Now you contend he is wrong in this; that Mrs. Woodd owed him more than \$1,000.00?

A. The only explanation that I can think of to that proposition is that possibly, possibly he paid the \$1,000.00 for Mrs. Woodd and she agreed to pay it back to him, I don't know; it was to be taken out of the judgment.

Q. Is that just conjecture or have you ever heard anyone say that?

A. I never knew how the \$1,000.00 was paid.

(Testimony of Daniel A. Knapp)

Q. If you think that is the case, then there is \$1,000.00 owing by Mrs. Woodd to this estate, in addition.

A. Yes, it would appear so, according to that.

The Referee: Just go ahead, I thought maybe I could get a clear picture of this, but I will just have to wait [207] and hear from all sides; it is a little confusing now.

Mr. Knapp: I am sorry, your Honor.

Q. By Mr. Bowden: Mr. Hovey on January 28, 1946 received a check from that escrow in the sum of \$1,054.94, is that correct? A. \$1,054.94?

Q. Yes, \$1,054.94. A. Are you referring to—

Q. I am referring to the same escrow we have been talking about.

A. I don't know anything about that. I supposed he received \$2,400.00. But I do know—\$1,200.00 was paid directly to me.

Q. In a check for \$1,200.00 paid directly to you?

A. Yes, sir.

Q. And there is one made out to M. L. Hovey and Anna L. Hovey for \$1,054.94; what interest did Anna L. Hovey have in that judgment?

A. I know of no interest.

Q. Why was the check made to them jointly?

A. I don't know, probably at his request.

Q. By the Referee: Dr. Hovey was the agent of Mr. Heath, was he? A. Yes, and Mr. Knapp.

Q. And after this date here of April the 23rd, 1943, there was paid from this former Woodd property—how much [208] did you say?

Mr. Bowden: Paid to Hovey?

(Testimony of Daniel A. Knapp)

The Referee: Yes.

Mr. Bowden: The check is for \$1,054.94.

Q. By the Referee: Now, that is more than what Mr. Heath said was owing by Mrs. Wood, was it not?

Mr. Bowden: Yes, your Honor, \$54.94.

The Referee: All right. Proceed.

Q. By Mr. Bowden: You don't know why the check was made to Mr. and Mrs. Hovey?

A. No, I do not.

Q. Mr. Knapp, you were handling this escrow, were you not?

A. No. After the sale was made, that was after the negotiations were entered into, I had nothing more to do with the escrow, it was between Mr. Garnier and Dr. Hovey.

Q. And you didn't pay any more attention to it?

A. Why, no.

Q. And Dr. Hovey had no interest in it, you were the one who had the interest in it?

A. Why, yes, certainly; I received the property.

Q. How did you happen to receive only \$1,200.00; did you demand \$1,200.00? A. Surely I did.

Q. And did you tell them to pay the rest to Dr. Hovey? A. Surely. [209]

Q. For what purpose?

A. As the representative of the Heath estate.

Q. But Mrs. Heath was the representative of Mr. Heath's estate at that time, was she not, and you were her attorney?

A. I don't think so; I don't think the estate had been filed at that time.

(Testimony of Daniel A. Knapp)

Q. What is the date of that filing?

The Referee: Admitted to probate February the 14th, 1946 and filed January the 23rd, 1946.

Mr. Knapp: That bears out my memory; at that time the estate had not been put into the probate and I put it there, keeping it under the trusteeship of Dr. Hovey until such time as the estate could be opened.

Q. By Mr. Bowden: You say you instructed them to send this money to Dr. Hovey as the agent for Mrs. Heath or the estate?

A. I didn't instruct any such thing. I told Mr. Garnier to proceed in his negotiations, not negotiations but in his escrow proceedings, with Dr. Hovey. The only thing I did in connection with it was to give my permission for the sale.

Q. Yes, but what I am trying to get at is this: Now, you have testified that you and Mr. Heath owned this piece of property and that Dr. Hovey only took it in his name for collection, is that correct?

A. That is correct. [210]

Q. Then why did you instruct the escrow to turn any money over to Dr. Hovey when you knew Dr. Hovey didn't have anything coming to him?

A. Because Dr. Hovey was to continue as our trustee until we closed up all of the matter and until the estate came on and the matter came into the estate there would be no occasion for me to take any money, I could not do so, it had to go through Dr. Hovey, as the agent.

Q. Then when you filed the petition to probate Mr. Heath's estate, why didn't you set forth that Dr. Hovey held that? A. I think that is being done.

(Testimony of Daniel A. Knapp)

Q. I am talking about at the time you filed the petition?

A. You don't set forth or itemize anything.

Q. Don't you give an estimate, the approximate amount of the estate, the real property and the interest in it? A. I never knew anyone to do that.

Q. Have you filed an inventory in the estate? A. I think the inventory has been filed.

Q. When was it filed?

A. I think in the last three or four weeks.

Q. Did you prepare it?

A. It was prepared in my office and O.K.'d by me.

Q. It must have been filed this week, it was not filed last week. [211]

By the Referee:

Q. Do you represent the estate, Mr. Knapp?

A. Yes, sir.

Q. During your connection, what does your investigation reveal as to its assets?

A. I have never had an opportunity to talk with Mrs. Woodd about that \$1,000.00 and I will say further we have claim after claim of Mr. Heath's, some of which we found were absolutely worthless and had no basis whatsoever and therefore we could not put a claim in sooner.

Q. Claims against Mr. Heath?

A. Claims in favor of Mr. Heath.

Q. And do you mean by that you thought this was worthless?

A. I don't know, I have not had an opportunity to talk to Mrs. Woodd about it.

(Testimony of Daniel A. Knapp)

Q. You have had plenty of opportunity, haven't you?

A. I don't think so.

Q. In the last year?

A. This is a claim in favor of Mr. Heath.

Q. It is an asset, isn't it, if it is correct?

A. Yes, sir.

Q. And you have not had an opportunity—

A. At any rate, I have not talked with her.

Q. Well, let's put it that way.

A. I don't know that I have had an opportunity.

The Referee: We will take an adjournment right now and [212] you can talk to her if you want to. I would like to know something about it. Proceed.

Q. By Mr. Bowden: Mr. Knapp, have you talked to Dr. Hovey about this \$1,054.94?

A. No, I never have. I don't know anything about it. I supposed the amount was \$1,200.00, he so testified.

Q. You knew he was going to make that sale?

A. Certainly.

Q. And you knew he received it about the time you received your check, which was January 26, 1946?

A. I presumed he did.

Q. Didn't you give instructions to the escrow to send it to him?

A. I never did. I explained to you I left that matter for Dr. Hovey to carry out, because I had no authority to interfere at that time with Dr. Hovey, and couldn't until the estate took the matter up.

Q. Tell us what happened when the escrow instructions were brought in? Didn't you give Dr. Hovey any instructions?

A. Mr. Bowden, the sale of this property was made by M. L. Hovey, therefore when Mr. Garnier went into

(Testimony of Daniel A. Knapp)

escrow he had to carry on his negotiations with M. L. Hovey, therefore the instructions had to be by M. L. Hovey; I didn't appear directly in that matter at all.

Q. There is no question about that, but I am not [213] talking about that. Didn't you give Mr. Hovey any instructions as to what to do with the proceeds of that sale?

A. Yes, sir, to pay \$1,200.00 to Mr. Knapp; \$400.00 on a debt and \$800.00 to apply upon the account.

Q. What about the balance?

A. I didn't say anything about that.

Q. And you were representing the executrix of Mr. Heath's estate?

A. I was not at that time, if there was no estate.

Q. Well, you did within a few days after the check was drawn? A. In a month or so.

Q. It is not a month, a few days.

A. No matter how long it was. At that time I was not representing—I knew there was \$1,200.00 paid over to Dr. Hovey, he said so.

Q. You knew you were going to represent Mrs. Heath in that estate? A. I don't know that I did.

Q. Did you make any demand on Dr. Hovey from January the 23rd, 1946 down to the present time to account for that \$1,054.94?

A. I did not. I made demand upon him to account for \$1,200.00.

Q. When did you make that demand on him?

A. Several times. [214]

Q. When was the first time?

A. I think perhaps six or eight—maybe three or four months ago.

(Testimony of Daniel A. Knapp)

Q. Have you ever received any accounting from him?

A. No, Dr. Hovey said that it was due and owing to him by Mr. Heath.

Q. For what?

A. He just said Mr. Heath borrowed some money from him and that on a certain occasion—I will withdraw my statement. He stated on a certain occasion he received some money from the sale of property belonging to his family in Nevada and at that time there was a distribution and I understood him to say that \$1,200.00 of that money he turned over to Mr. Heath under an agreement that Mr. Heath was to pay it back on demand, but he kept no writing and when he informed me of that I told him that matter would come up in the estate in the regular order.

Q. That was after the will had been filed for probate? A. Yes.

Q. Didn't you advise him at that time that he should file his claim with the executrix?

A. I have not advised Dr. Hovey what to do.

Q. Well, didn't you tell him or demand of him to follow that procedure?

A. No, because the inventory has not been filed except in the last few days. [215]

Q. When did you prepare that inventory?

A. Mrs. Knapp has been trying to get that inventory in order for three months.

Q. Why didn't you start before that time?

A. I don't know why; because my understanding is that the claims were such we could not get hold of it. For example—in going into lands of this kind—and I don't think that has anything to do with this case—

(Testimony of Daniel A. Knapp)

Mr. Bowden: Then don't tell us about them; just tell us why you didn't start preparing the inventory before? The law provides that the inventory will be filed within a year, doesn't it? A. Yes, and it will be.

Q. It has not been filed within the year.

A. The year is not up until February.

Q. Why didn't you file it before?

A. Well, just to illustrate: There was a deed where there was some land and we ran that down and found no consideration was paid for that land whatsoever and if we put that in we would run into a lawsuit that would cost the estate a lot of money. That was just one point.

Q. If you had read Mr. Heath's will you would have known he didn't claim—

A. I don't think Mr. Heath had the slightest reference to his claim for fees. I think it is something entirely different. Mr. Heath had always said, and I think to this [216] day he believed his fees were worth \$4,500.00, and he was entitled to it.

Q. You think he must have forgotten it?

A. I don't know whether he forgot it or what he did; it is not explainable to me.

Q. By the Referee: May I get this distribution straight? Now, the \$1,200.00 out of escrow.

Mr. Bowden: The \$1,200.00 to Daniel A. Knapp; \$1,054.94 to M. L. Hovey and Anna L. Hovey. Of the \$1,200.00 to Mr. Knapp he testified \$400.00 represented rent due Mr. Knapp from Mr. Heath.

The Witness: That is correct.

The Referee: And \$800.00 was on the fee?

Mr. Knapp: Well, if that is the way your Honor puts it.

(Testimony of Daniel A. Knapp)

The Referee: I don't want to put any construction of my own on it.

Q. The \$800.00 was in addition to the rent?

A. That is right. Anyway, it was chargeable against Mr. Knapp.

Q. By Mr. Bowden: Did you read the escrow instructions on the Glendale property before or after Mr. Hovey signed them? A. I did not.

Q. Isn't it a fact, Mr. Knapp, that Mrs. Woodd sent Mr. Garnier to see you?

A. Mr. Garnier never told me that and Mrs. Woodd never [217] told me that and I don't know.

Q. I asked you if it is not a fact?

A. I don't know whether it is a fact or not. She never told me so.

Q. You knew Mrs. Woodd was a long time friend of Mr. Garnier, didn't you? A. I did not.

Q. In whose name does the Hobart property now stand?

A. It stands in the name of—is the record here? I have seen your deed to the name of Melanie Douillard Woodd.

Mr. Bowden: I would like to offer in evidence, if the Court please, a grant deed dated the 12th of September, 1946, in favor of Louis Alfred Douillard, Sr., an unmarried man, which is identified in the files—strike that—I would like to offer in evidence a grant deed dated the 11th day of September, 1946, in favor of Louis Alfred Douillard, Sr., and executed by M. L. Hovey, Anna L. Hovey, and marked in these proceedings as Creditors' Exhibit 1.

We would also like to offer in evidence—

(Testimony of Daniel A. Knapp)

Mr. Knapp: That was what date?

Mr. Bowden: That is the 11th of December, 1946 and acknowledged the same day.

Mr. Knapp: Before whom?

Mr. Bowden: Alfred Price MacNair, a Notary Public; and I would also like to offer into evidence a grant deed in favor of Melanie Selena Woodd, executed by Louis Alfred [218] Douillard, Sr., dated September 12, 1946; do you want the Notary on that?

Mr. Knapp: Yes.

Mr. Bowden: W. W. Robinson, Notary Public.

Mr. Knapp: And for what consideration?

Mr. Bowden: The 12th day of December, 1946, the deed states "No U. S. Revenue stamps are to be affixed to this deed, as the consideration thereof is less than a hundred dollars," the last deed I referred to is marked in this proceeding as Creditor's Exhibit 2.

The Referee: That will be received. Just let me have them, please. Were they both offered as one exhibit?

Mr. Bowden: No, your Honor, two separate exhibits.

The Referee: This will be Trustee's 2 and 3.

Q. By Mr. Bowden: When did you first learn, Mr. Knapp, that the Hobart property had been deeded back to the bankrupt?

A. Had been deeded back to whom?

Q. The bankrupt?

A. Oh, about three weeks ago, I think; I think it was on Friday about three weeks ago.

Q. Now, up until the 15th—I will withdraw that. Now, up until September the 12th, 1946, had you had any conversation with Dr. Hovey regarding the Hobart

(Testimony of Daniel A. Knapp)

property or the Glendale property since the time the escrow was opened up for the sale of the Glendale property? [219]

A. Yes, some conversation with him about the money that was received, the \$1,200.00 that was received there.

Q. No, about the Hobart property?

A. No; the only thing, the only conversation relative to that, and I don't know when it was, was to the effect that the moneys received from the rentals were to be used to pay off an incumbrance and Mrs. Woodd was to have the use of an apartment for the purpose or rather in consideration of collecting the rent and keeping the place up.

Q. I think you are getting confused; that conversation occurred before the sale of the Glendale property, didn't it?

A. We have talked about it since that time.

Q. You have? A. Yes.

Q. Did you talk to him about selling the property, the Hobart property?

A. I have—I think there has been some talk of it, but merely to ask him whether he thought the time was ripe for the selling of it and whether he knew anything about what it was being offered for; words to that effect. I don't recall, though, definitely, what was said about it, but I do have that recollection.

Q. Had you had any conversation with Dr. Hovey about making a deed to the bankrupt's nephew, Louis Alfred Douillard?

A. Yes, I had a conversation with him after the deed was made. [220]

(Testimony of Daniel A. Knapp)

Q. But not before? A. No.

Q. Did you have any conversation with Mr. Douillard before the deed was made?

A. No, I never have had a conversation with him.

Q. You set forth in your verified answer, Paragraph XIII, as follows: "That on or about September 11, 1946, the said M. L. Hovey executed a grant deed, of record, to one Alfred Louis Douillard, Sr., as grantee, for the sum of \$500.00, and that the said Louis Alfred Douillard, Sr., at the time of the execution of said grant deed, well knew that the said property at that time had a value in excess of \$5,500.00, and well knew that M. L. Hovey was the trustee thereof and it was intended to be a conveyance of the trustee interest only by said M. L. Hovey."

Where did you get that information?

A. Right here in this court room from Dr. Hovey's testimony.

Q. That is all the information you had?

A. That is all.

Q. You didn't talk to Mr. Douillard? A. No.

Q. Do you know that Mr. Douillard testified here that he paid \$500.00 full consideration for the property?

A. Well, I heard it.

Q. Then you knew he didn't know about the trusteeship, [221] didn't you?

A. I knew he must have known about the circumstance; he could not have helped but know it.

Q. What do you contend now; that this is your property?

A. Certainly, it is held by the trustee and in the state court I immediately moved to have a trust declared upon it and determination of the trust.

(Testimony of Daniel A. Knapp)

Q. Have you started a suit in the state court?

A. I have not, because I am waiting for a conclusion of your petition.

Mr. Bowden: That is all I think at the present time.

Mr. Knapp: May I examine the witness?

The Referee: Yes, or you may make a statement if you so desire.

Mr. Knapp: All right. It will be to the same effect. The conversation with Mrs. Woodd about the 10th of April, 1940 was had upon the assumption that a written judgment would be entered in favor of the plaintiff in that action; the Douillard, and against Mrs. Woodd, and it was asked if Mrs. Woodd in the course of the conversation—whether or not in the event that that took place and attachments were made upon the properties held by her, she would have any money to pay her attorneys; she said not; we proceeded to gamble upon the theory that we might be able to get our fees by moving in the case at that time, a friendly case against her, and attaching, and we intended that the fees should be [222] fixed by the court. In September, I think, of that same year, Mrs. Woodd wrote a letter or two, in which she stated that she would be glad to recognize an indebtedness of \$4,000.00. Mr. Martindale's position in this case arose in this way: When we told her were going to bring a friendly suit in the name of Dr. Hovey as plaintiff, she said, "Well, who will be my attorney."

Mr. Heath or I, one or the other, said, "We don't know, get any attorney you want to get but get one you want to rely upon—we cannot advise you"; later she secured Mr. Martindale and stated that the reason she did so was because she had known him for a long time

(Testimony of Daniel A. Knapp)

and had perfect confidence in him. I had no conversation personally with Mr. Martindale at any time during this case, and I believe not otherwise, that is, I am referring to the Hovey case. We were not on good terms. I do not know where his office was; I do know that at one time he had an office, he stated, at another part of the Black Building, where my office was, but I do not know where his office was during the period of this case. Mr. Heath asked me upon an occasion after the attachments were made and execution secured in 1941 whether there was any need in my estimation of hurrying the sale of the properties and I told him so far as I could see in connection with it the properties were paying off the encumbrances and there was not anything besides that until there was an opportunity of finding a worth while buyer there was no use [223] of executing, there was no hurry to execute, and he said, "I will watch things and as soon as I think it desirable I will run an execution." There was never any conversation at any time relative to the progress of the Douillard case then on appeal, because we considered that the attachments that had been rendered gave us precedence over any possible execution that might ensue from that case. The same matter that is taken up here was taken up in the Emil A. Douillard versus Smith, in the Glendale property, where judgment was rendered by Judge Stutzman forever attacking title in that property; there was an appeal in that case and finally a petition for hearing in the Supreme Court by Mr. Clements, Mr. Austin and Mr. Helmick. I have that petition before me and it contains the decision of the Appellate Court; I desire to introduce this in evidence.

(Testimony of Daniel A. Knapp)

Mr. Bowden: We object to it on the ground that it does not tend to prove or disprove any of the issues in this case.

The Referee: I will mark it Respondent's 1.

Mr. Knapp: I now call the Court's attention to the fact that upon the 18th day of April, 1944 there was delivered to Mr. Heath, then acting for M. L. Hovey, a deed, a Sheriff's deed, covering Lot 11, Tract 314, as per map recorded in Book 14, pages 122, 123 of Maps of Los Angeles County Recorder, the same referring to what is known as the Glendale property. That deed was recorded in Book No. 21922, page 71, and the deed was forwarded back to our office and has [224] remained there ever since. Instead of introducing it in evidence I would like to read it in evidence or have it—

The Referee: We will take a certified copy.

Mr. Knapp: All right.

The Referee: Or you can produce one and substitute it for the original.

Mr. Knapp: All right. I also call the Court's attention to—

Mr. Bowden: Do you want to offer that then, Mr. Knapp?

Mr. Knapp: Yes.

Mr. Bowden: With the understanding it can be withdrawn upon the substitution of the photostatic copy?

Mr. Knapp: Yes.

The Referee: That will be the order. That will be Respondent's 2.

Mr. Knapp: I also call the Court's attention to a deed, the 18th day of April, 1944, by E. W. Biscaliz, Sheriff

(Testimony of Daniel A. Knapp)

of Los Angeles County, to M. L. Hovey, covering the South 108 feet of Lot 8, Zahn Tract, as per Map recorded in Book 12, page 127 of Maps of Los Angeles County, known as 5255 Virginia Avenue, Los Angeles, and I will state in this connection that this deed was secured by Mr. Heath, that it was caused to be recorded by him in Book 21533, page 36, Officials Records of Los Angeles County, and Mr. Heath ordered it returned to our office, where it has been ever since.

The Referee: I will receive that, Respondent's 3. [225]

Mr. Knapp: I presume that the presumption of law, that a sale was made in accordance with the requirements of the law; if not I have the necessary publication and posting of the property.

The Referee: I assume we may assume that it was done according to the law unless the Trustee wants to point out wherein it was not.

Mr. Knapp: I will state further in connection with this that Mr. Heath and I after the bidding in of those properties, considered that the debt of Mrs. Woodd to us was wiped out to the full extent of the purchase price paid for the two properties, and from that time on we, through our trustee, Mr. Hovey, owned these properties. The comment that the debt of Mrs. Woodd was wiped out as we saw it, by the sale of the Virginia Street property, which was \$1,775.00, with the Glendale property \$1,250.00, leaving a balance of \$1,750.00, \$1,250.00 and \$1,000.00, which is the amount that Mr. Heath meant in his will.

Mr. Bowden: I move to strike that last portion of the answer on the ground it is a conclusion of the witness. It is not the amount Mr. Heath mentioned in his will.

The Referee: Overruled.

(Testimony of Daniel A. Knapp)

Mr. Knapp: That is all the statement I have to make.

Q. By Mr. Bowden: Mr. Knapp, you say that you considered she still owed you \$1,000.00. What was the amount of the judgment, \$4,000.00? [226]

A. The indebtedness was \$4,000.00. I consider that \$3,000.00 has been wiped out.

Q. It is \$3,025.00, is it not?

A. \$3,000.00 has been wiped out; there is added costs in connection there and there is interest running.

Q. Didn't you get \$450.00 from the County Clerk that was being held by him from condemnation proceedings affecting Mrs. Woodd's property?

A. I do not know anything about that.

Q. You don't remember receiving that?

A. No, I don't. I remember there was something about it but I don't know what it was.

Q. Now, besides these two properties you executed on a trust deed, did you not, belonging to Mrs. Woodd?

A. You are referring to the

Q. Yes.

A. It has been finally determined in favor of Mr. Clements and which we now have the honor of paying, including all those court rates.

Q. Now, all of the property you have referred to as belonging to Mrs. Woodd was either received by her from her mother's estate or purchased by her with money received from her mother's estate?

A. I don't know the origin of this property.

Q. Well, you represented her in this matter.

A. No, I never represented Mrs. Woodd except in the [227] matter of Douillard versus Woodd.

(Testimony of Daniel A. Knapp)

Q. But you do know when you finally executed on the Yarborough note you then had all of the property Mrs. Woodd owned in the world?

A. No, I do not. I know she said she had no property but that is all I know.

Q. In other words, the net result of your services to Mrs. Woodd in defending her in a \$7,500.00 lawsuit was to take every bit of property she had in the world?

A. Mrs. Woodd was paying for other debts that had accumulated many years, at least \$2,500.00.

Q. What did she owe to you, Mr. Knapp, other than for services in the Douillard case?

A. I don't consider—unless the Court overrules me, that the question asked as to what we were taking from Mrs. Woodd otherwise had anything to do with it. The question is: What were our services worth? It took us nearly ten days of trial, we had worked on the case almost a year, Mrs. Woodd was very excitable and I would say she came in hundreds of time for conferences. We had a motion for a new trial and we had another motion, I have forgotten what it was now, we then had a transcript and we had to present a motion to correct the transcript and it took weeks and weeks to correct it and finally the brief to write upon appeal; taking in all nearly three years of it, I think we earned our money double.

The Referee: Yes, I think we needn't pursue that any [228] further. It is rather argumentative. In other words, Mr. Bowden's observation, everything she had in the world she lost to you two gentlemen because of your trying to defend her unsuccessfully in the litigation—that is just his opinion; I don't know that it affects this case.

(Testimony of Daniel A. Knapp)

Mr. Bowden: Now, after you told Mrs. Woodd you were going to file a friendly suit against her for fees, you continued to represent her on the appeal in the Douillard matter, didn't you?

A. Yes. We asked her at the time if she desired to continue our services and she said she certainly did, that she owed us so much money it was only a question of how much she owed us.

The Referee: Now, as I recall having heard the testimony in connection with this phase of the matter in other hearings, I suggest you might get those questions and replies which the reporter took down as a part of this record.

Mr. Bowden: As far as I am concerned, I am willing to stipulate that all of the testimony given subsequent to the reopening of this case may be considered as in evidence if there is no objection.

The Referee: I was thinking when this matter was presented to me before, if a record were made of it as to what they did and so forth, I know either Mr. Knapp or Mr. Heath went over that in great deal as to what work was done; it might be more satisfactory just to take all of the evidence [229] we have in this matter which pertains to this subject matter and consider it in evidence here.

Mr. Bowden: If there is no objection I will offer it all, together with all of the exhibits that are pertinent to the matter here.

The Referee: It will be received; however, that part of it which is not material and is on subjects not allied to this we can disregard; so all of these other discussions and testimony on this matter will be received. I am more

(Testimony of Daniel A. Knapp)

concerned with the latter part of this. I think we have the factual chronological picture here of the case and the records and executions. I would like to get more of the latter part of this controversy, that is, the giving of these last deeds, and I would like to have Mrs. Woodd, if possible, tell what she can here in connection with this reference on the will.

Mr. Bowden: I would like to examine Mrs. Heath about that too but I understand Mrs. Heath is not here.

Mr. Knapp: No, she is sick.

Mr. Bowden: How long do you think she will be sick?

Mr. Knapp: I don't know. I know I called her Saturday in answer to your call and the daughter informed me she was ill but asked me where the hearing would be held and I told her but she is not here today, so I conclude her illness has continued.

Q. By the Referee: Mr. Knapp, from your knowledge and [230] your former connection with Mr. Heath and also your representation in the probate estate, what does Mrs. Heath know about this Woodd transaction?

A. Absolutely nothing, except general statements made by Mr. Heath to her from time to time; it is all hearsay. Everything else was turned over to me.

The Referee: I suggest that be deferred to the end of the hearing and if it is absolutely necessary she may come in. We would get the picture more definitely, wouldn't we, from you than from her? In other words, she would not add anything to this.

Mr. Knapp: Not a thing; she turned everything over to me.

(Testimony of Daniel A. Knapp)

Q. By Mr. Bowden: Do you intend to include this property in the order to show cause in your appraisement in connection with the Fred Heath estate?

A. Yes, indeed; Mr. Heath considered it was his property.

The Referee: Well you have an answer to your question. Mr. Knapp has stated he intends to include it in the Heath estate.

Q. By Mr. Bowden: Can you tell us whether or not the mortgage has been paid off on the property?

A. You are referring to what property?

Q. Hobart.

A. I think not. I think it has been reduced greatly [231] but not paid off. The bank is a party to this hearing and they have not appeared—

Mr. Knapp: It is nearly \$3,000.00; \$2,500.00 or something like that.

Mr. Bowden: That is all.

The Referee: Next witness.

Mr. Bowden: I will call Mrs. Woodd.

MELANIE DOUILLARD WOODD,

having been previously duly sworn, on oath testified as follows:

Q. By Mr. Bowden: Mrs. Woodd, you are the bankrupt in this proceeding? A. Yes, sir.

Q. Where do you live?

A. 5255 Virginia Avenue.

Q. 5255 Virginia Avenue? A. Yes, sir.

Q. How long have you lived there?

A. Almost ten years.

Q. Continuously? A. Yes, sir.

(Testimony of Melanie Douillard Woodd)

Q. Do you claim to own that property at the present time? A. I do.

Q. Where did you obtain your title to that property? A. Through Louis Douillard. [232]

Q. How long ago?

A. About two months ago, I guess.

Q. He gave you a deed, did he? A. He did.

Q. The deed that has been talked about here?

A. Yes, sir, a grant deed.

Q. Who did he get his deed from, do you know?

A. You ask him.

Q. Well, I will in due time. Now, as I understand you testified previously, that you secured two blank deeds and went to the bank and had them made up?

A. No, I had two deeds and I took them down. I had, I think, one deed, I may have had two, I don't know, and I took them down to the bank, before I had them recorded. Louis gave me his deeds to have them recorded and I took them down to the bank and had them look over them and they were not rightly filled out.

Q. When was that?

A. So the bank made some more—I think I had better let the bank speak, they are here.

Q. Anyway, they made the deeds the way you wanted them?

A. The way they should be; not the way I wanted it.

Q. That was about September?

A. I think so.

Q. What did you do with the deeds when you got them [233] from the bank?

A. I took it back to Louis Douillard.

(Testimony of Melanie Douillard Woodd)

Q. What did he do with it?

A. I don't know.

Q. Is that the deed in which he was named as the grantee? Which deed are you talking about?

A. Yes, what are you talking about?

The Referee: Well, let's start in at the first, in connection with the form of the deed. You start right in with the first now and say where you went and what and how many forms you got and what you did with them and then going back and so forth.

A. Louis Douillard gave me two deeds filled out.

Q. Now, is that the first time?

A. Yes, sir.

Q. You didn't go to the bank and get two forms for him?

A. No, he gave me these two forms already filled out by some friend of his.

Q. One was a deed to him and the other was a deed from him to you?

A. I think so; I don't know if those two were the same day even.

Q. Well, you say he gave you two forms, were they two separate forms? A. Yes, sir.

Q. What were they? [234]

A. One was from—

Q. Hovey to him?

A. Yes, sir, I guess so, and from him to me, and then I took them to have them recorded.

Q. Where did you take them?

A. Before I went to have them recorded I took them down to the loan and trust department in the Security Bank, where they hold the mortgage, Mr. Dick, and I

(Testimony of Melanie Douillard Woodd)

showed him these deeds—maybe not both of them but one—and he said it was not filled out right and he gave me a couple of blanks from the Security Bank and had the girl fill out the legal.

Q. So she made two more deeds?

A. Yes, sir, but she never made them in the first place, just this—she filled in the legal.

Q. Then she gave them back to you?

A. Yes, sir, and I took them and had stamps put on them.

Q. They were not signed when you took them?

A. No, sir.

Q. Then what did you do?

A. Then I took them home again to Louis.

Q. What did he do with them?

A. I don't know. Of course I know by hearsay.

Q. You took them to him and told him to sign that new form? . . . A. Yes, sir.

Q. Then did the deeds come back to you? [235]

A. Yes, sir.

Q. Who gave them back to you?

A. Louis Douillard.

Q. Then what did you do?

A. I took one down and had the stamps put on here at the Post Office and had one recorded and the other I held.

Q. Did you take the other one down to the Post Office to find out if any stamps should go on it?

A. No, I took it to a lawyer.

Q. What lawyer?

A. Mr. Stewart, five or six weeks later, though.

(Testimony of Melanie Douillard Woodd)

Q. Then you recorded the first one?

A. Yes, sir, six weeks before that.

Q. From Mr. Hovey to Louis Douillard?

A. Yes, sir.

Q. Then you kept the other deed five or six weeks?

A. Yes, sir, I just put it in my trunk.

Q. Then what next happened?

A. Well, the little boy got into some trouble and it frightened me and I took my deed down and told Mr. Stewart all about it and said I wanted to put it through and he said that would be the best thing to do, and he looked it over and said it was all right, and I went and recorded it.

Q. Now that seems to show what actually happened in the deed. Do you want to add anything to that, Mr. Bowden, or ask any questions? [236]

Mr. Bowden: No, your Honor.

The Referee: That seems to be the way the deeds were handled.

Mr. Stewart: May I cross-examine the witness?

The Referee: I believe we will take a short recess now and then decide whether or not we should have a cross-examination on this point or wait until we get through.

(Whereupon a recess was had.)

The Referee: Mrs. Woodd, will you resume the stand?

Mr. Stewart: If your Honor please, I wonder if at this time we might have the indulgence of the Court and call a witness out of order?

Mr. Bowden: I have no objection.

The Referee: All right.

A. C. DICK,

being first duly sworn, on oath testified as follows:

Q. By Mr. Stewart: Mr. Dick, what is your position?

A. I am in charge of the trust real estate loans.

Q. At what bank? A. Security-First National.

Q. And what branch? A. Sixth and Spring.

Q. In connection with that, do you have charge of certain files of the bank that have to do with a loan on property described as 108 feet of Lot 8 of the Zahn Tract? A. I do. [237]

Mr. Bowden: May I ask, this is the bankrupt's witness, isn't he?

Mr. Stewart: He is the bankrupt's witness, yes.

Q. By Mr. Stewart: And in connection with that property, you made a new loan on that property, did you not? A. We did.

Q. There was at that time a loan on the property?

A. There was.

Q. And your records, I believe will show, will they not, that in connection with the new loan the signatures required or taken were the signatures of M. L. Hovey and Anna L. Hovey, taken on the note, and then there was an endorsement signature of Melanie Woodd taken as guarantor on that?

A. M. L. Hovey and Anna L. Hovey executed the note and the endorser was Melanie Woodd.

Q. What was the date of that new note?

A. December 26, 1944.

Q. And do you know why the name of Melanie D. Woodd was taken as an endorser in that matter?

A. Well, it was our custom—Melanie D. Woodd executed the former loan and then when M. L. Hovey came

(Testimony of A. C. Dick)

in, it was our custom to pick up the former maker if we can and if she is willing, to make her the endorser or guarantor, if she is willing, and if she was not, we would have to investigate the loan to Mr. Hovey. [238]

Q. You brought that to the attention of Mr. Hovey?

A. I did.

Q. And the endorsement was secured?

A. The endorsement of Melanie Woodd was secured.

Q. Do you know what explanation, if any, was given to her as to why she was signing as endorser?

A. No.

Q. Do you recall whether you or Dr. Hovey talked to her?

A. I don't recall, it may have been Dr. Hovey, I don't recall, but when Dr. Hovey first came in and asked for the increase of the loan, I probably at that time said, "How about getting Melanie D. Woodd as endorser or guarantor of the note?"

Q. There was no matter of the title to the property at that time that showed the title to Melanie Douillard Woodd or anything of that kind?

A. No, the title showed in the name of M. L. Hovey by deed dated April 18, 1944.

Q. Do you know how payment was made out of the escrow, or the proceeds of the new loan?

A. It was made to M. L. Hovey and Anna L. Hovey and Melanie D. Woodd.

Q. Do you know how that was handled?

A. By the trust department voucher and the check was passed over, I believe, to M. L. Hovey; I don't recall — [239] yes, we mailed it to M. L. Hovey and Anna L.

(Testimony of A. C. Dick)

Hovey on 1675 West Washington Boulevard, on February 2, 1945.

Q. By Mr. Bowden: Do you know what was the course of that check after it was given by you?

A. The check was endorsed, "Pay to the Order of M. L. Hovey, By M. L. Hovey, Anna L. Hovey and Melanie D. Woodd," and bears our stamp on it, the Washington Branch of the Security Bank.

Q. By Mr. Stewart: And the bank's stamp endorsement on it as you say indicates a deposit of the whole?

A. I could not say whether that was a deposit or whether it was just cashed out there, but evidently it was at that branch, whether it was deposited or cashed.

Mr. Stewart: That is all.

The Referee: How much was this check?

A. \$1,017.13, it was an increase over the former loan we had.

Q. Do you find that Mr. Knapp's or Mr. Heath's name is on the check?

A. I never knew anything about Mr. Knapp or Mr. Heath.

Q. It would appear from the check it had been paid to Dr. Hovey? A. Yes, sir; I have it here.

The Referee: May I see it, please?

(Witness hands check to the Referee.)

Mr. Stewart: As to the form of the endorsement on that [240] check, whether deposited, cashed or finally handled, was by Hovey, wasn't it?

Mr. Bowden: I will object to that as calling for a conclusion?

The Referee: Dr. Hovey can tell us how it was handled, the endorsement is "Pay to the order of M. L.

(Testimony of A. C. Dick)

Hovey," signed "M. L. Hovey, Anna L. Hovey and Melanie D. Woodd." \$1,017.13. I will return this to you.

Q. By the Referee: Do you recall when they came in to make the extension of the loan?

A. The renewal increase?

Q. Yes, you don't have any personal knowledge of it, do you?

A. I do not, except it must have been around November 27, 1944, because that is when I submitted it to our committee.

Q. In other words, he owed you that money at that time on the old loan?

A. They owed us on the old loan the difference between that check and \$2,800.00, less the escrow charges.

The Referee: I am looking at her schedule, filed August 29, 1945.

The Witness: Here it is, they owed us \$1,770.73 plus interest at 5½ per cent from December 15, 1944.

Q. What is the condition of this particular balance or loan now; has it been paid? [241]

A. As of December the 15th, the January just passed by—I neglected to get that January—but as of December the 15th the balance is \$2,377.00.

Q. By the Referee: And that is an obligation of Melanie Douillard Woodd?

A. She is the endorser.

Q. Well, she is really the principal, isn't she? Do you have a separate contract of guarantee?

A. Yes, sir.

(Testimony of A. C. Dick)

The Referee: I see. I don't believe she has scheduled that in her schedules which were filed August 29, 1945; in fact, it is not scheduled. Had that been scheduled and set up that would have opened an inquiry that might have been conducted—I don't know that there would have been any different result; but the schedules are not true, they do not truly reflect the payments owing by the bankrupt.

Mr. Stewart: Might I say this: At the time the matter was brought to my attention after this hearing that brought this check before the Court, Mrs. Woodd seemed to know nothing about this obligation and didn't know how she had her name on it, and I investigated and found out it was there by reason of the process of the bank.

The Referee: I will return this to you. Any other questions of this witness?

Mr. Bowden: I would like to have this note and check offered in evidence. I presume the bank will supply us with [242] a photostatic copy rather than put the original in.

The Witness: Yes, sir; that is right.

Mr. Bowden: As the Trustee's next in order.

The Referee: All right. I will receive the photostat copy.

Mr. Bowden: May I look at the deed of trust? Do you have your instructions there in connection with the escrow?

(Testimony of A. C. Dick)

Mr. Bowden: The witness is showing me escrow instructions in connection with this loan, or a copy, rather, is it a correct copy?

The Witness: Yes, and this is the original.

Mr. Bowden: I am reading from the original, it is dated December the 26th, 1944, and signed by Melanie D. Woodd, 5255 Virginia Avenue, Los Angeles, and on the left-hand side M. L. Hovey, Anna L. Hovey, 1675 West Washington Boulevard. I would also like to have these photostat copies kept and received in evidence as the Trustee's next in order. Will you photostat the original?

The Witness: Yes, sir.

Q. Now, do you have a statement showing the disbursement of the fund?

The Referee: Well, the net result would be after the pay-off and costs the balance would be evidenced by a check?

Mr. Bowden: Yes.

The Referee: These matters that are coming in here all will be marked Trustee's 4 and be received; I will clip them [243] together.

The Witness: The check, note and escrow statement?

Mr. Bowden: Yes, the deed of trust is not signed by Mrs. Woodd, is it?

The Witness: No, sir.

The Referee: That is all.

Now, Mrs. Woodd, please.

MELANIE DOUILLARD WOODD,

having been previously sworn, on oath testified as follows:

The Referee: I believe it will be more agreeable, Mr. Knapp, to have all the cross-examination at the conclusion and therefore I will hold your questions in abeyance.

Q. By Mr. Bowden: Mrs. Woodd, do you remember what became of your homestead on the Hobart property?

A. Yes, sir.

Q. What became of it?

A. Mr. Heath gave me \$1,000.00 for my homestead.

Q. When did he give you that? A. Years ago.

Q. Well, when?

A. It has been years ago, before they sold my property, before the property was sold at the Sheriff's sale; somewhere in there.

Q. The property was sold April the 12th, 1943?

A. Yes, sir.

Q. Does that refresh your memory? [244]

A. Well, sometime before that he gave it to me.

Q. How long before?

A. I couldn't say.

Q. Where were you when he gave it to you, the \$1,000.00? A. In his office.

Q. Did he give you a check?

A. No, he gave me bills.

Q. What kind of bills?

A. I think they were fifties or hundred dollar bills.

Q. In a total of \$1,000.00?

A. Yes, sir, \$1,000.00.

(Testimony of Melanie Douillard Woodd)

Q. Did he serve any papers on you before that time or did he just call you in and give you the \$1,000.00?

A. No, he served papers on me and I think took me into court before Judge Vickers, I think that was the name.

Q. Well, were you represented by an attorney then?

A. No, I had no attorney.

Q. Do you know what happened when he took you to court? A. Well, something about the homestead.

Q. What did you do with the \$1,000.00?

A. That was my own private money to do as I wished with.

Q. What did you do with it? A. I spent it.

Q. For what?

A. For clothes and things, maybe doctor bills. [245]

Q. When he gave you this \$1,000.00 in cash, what did you do with it? A. I took it home.

Q. Where did you keep it?

A. In the bureau drawer.

Q. Didn't you put it in the bank? A. No.

Q. Why didn't you put it in the bank?

A. I would not put a nickel in the bank; Mr. Clements had taken \$90.00 of my money, do you think I would put any more in?

Q. So you just kept it in your bureau drawer so Mr. Clements and his clients would not know about it?

A. That is not why I did it, I just kept it so I could do with it as I pleased; no one could have touched that money anyway; it was my homestead money.

Mr. Bowden: I think we have all of the testimony in.

The Referee: I would like to go over this whole matter again. Start right in at the beginning and let's hear

(Testimony of Melanie Douillard Woodd)
about it again today. I think I can get a clear picture of it by hearing it rather than by reading it.

Q. By Mr. Bowden: Mrs. Woodd, you have lived in this property all during the time you were in bankruptcy?

A. Yes, sir.

Q. And all during the time Mr. Knapp and Mr. Heath claimed to have owned it? [246] A. Yes, sir.

Q. And you have paid no rent during that period of time?

A. No, I lived there and took care of the place.

Q. And you collected the rent on the premises?

A. Yes, sir.

Q. And you made the payments on the trust deed every month? A. Yes, I would bring it down.

Q. By the Referee: And you took the money in to Dr. Hovey?

A. Yes, and he would give me a check and I would take the check down to the bank.

Q. Now, at the present time you own this property, that is your contention? A. Yes, sir.

Q. What is your view of Mr. Knapp's position that he owns it? A. I cannot see that he owns it now.

Q. Now, when Mr. Heath wrote his will, the will that they are now probating, apparently in court, it says: "Mrs. Woodd owes me about \$1,000.00 represented in the Hovey versus Woodd judgment." Now, that was on April 22, 1943; after that date has he received his \$1,000.00? A. No, he has not.

Q. What did he mean; what did you owe him on April 22, [247] 1943?

A. I don't know, I owed him money long before that; I had divorce cases and things like that and the Douillards gave me so much trouble all through the years.

(Testimony of Melanie Douillard Woodd)

Q. Now, on April the 22nd, 1943 the Hovey judgment was against you, was it not? A. Yes, sir.

Q. Now, in addition to that Hovey judgment which was some \$4,000.00, did you owe him another \$1,000.00? Do you owe him \$1,000.00 now?

A. Not that I know of.

Q. In other words, whatever it was you owed him was in the Hovey judgment?

A. Oh, I should think so.

Q. Was there an understanding that when, say as of April 22nd, 1943, that is when Mr. Heath made the statement, wrote it out in his own handwriting, was there an understanding that if and when he received for his part of this Hovey judgment another \$1,000.00, that that would satisfy him?

A. I don't remember anything like that.

Q. What is now your explanation as to his statement of April the 22nd, 1943, that you owed him about \$1,000.00, represented in the Woodd versus Hovey judgment? A. I would not know.

Q. Now, you heard Mr. Knapp state his claim to this property. Do you consider that he has been paid? [248]

A. Mr. Knapp has been paid?

Q. Yes.

A. No, I don't feel that he has been paid.

Q. How much does Mr. Knapp, in your opinion, still have coming?

A. I would say more like \$1,000.00 to Mr. Knapp. He fought all through this thing; Mr. Heath was sick a great deal.

Q. In other words, if you owed anything to anyone, you would say \$1,000.00 to Mr. Knapp and not to Mr. Heath? A. Yes, I would say that.

(Testimony of Melanie Douillard Woodd)

Q. Did he do most of the work?

A. Yes, your Honor, Mr. Heath was sick all through there and Mr. Knapp fought all of the way through this.

Q. Was it your thought that if Mr. Knapp got this \$1,000.00 he should not make this demand against you and the property should not be his?

A. I don't know what to say.

Q. Well, he is contending you have his property and you have no right to it.

A. I would give him another \$1,000.00.

Q. Do you think that would be fair?

A. Yes, sir.

Q. But he contends he should have all of it.

A. Yes, I know he does.

Q. That is what he contends. [249]

A. Yes, I know.

Q. And you dispute that contention, that he should not have anything more than \$1,000.00, is that it?

A. Yes, sir.

Q. Well, the thing is very confusing and I want you to tell us about it.

A. I don't know. I would have to talk to Mr. Knapp about it.

Q. You seem to be in opposition here. In other words, the property is in your name? A. Yes, sir.

Q. It was bought by your nephew and he gave it to you after he bought it? A. Yes, sir.

Q. So you can claim it is yours?

A. Yes, sir, and I don't want to let go of it.

Q. On the other hand, Mr. Knapp is here claiming it is his and you don't have any interest in it?

A. I feel I have got an interest in it.

(Testimony of Melanie Douillard Woodd)

The Referee: Well, I suggest you go ahead on the matter, Mr. Bowden, maybe we can get a little clearer picture of it. I would like to go through this transaction again on the purchase by the nephew; where the deed was secured and how and what was said.

Q. By Mr. Bowden: When was the first time you talked to your nephew about getting this property in your name, Mrs. [250] Woodd?

A. I didn't talk to him about getting it in my name.

Q. Never? A. No.

Q. When was the first time you found out he had the property in his name?

A. On September the 11th or 12th.

Q. Then didn't you talk to him about making a deed to you?

A. No, he made it of his own free will.

Q. And he gave you both deeds at the same time?

A. Yes, I think so, one might have been one day and one the next, but right in there.

Q. What did he say when he gave you the deed?

A. His deed to me?

Q. Well, you say he gave you both deeds?

A. He told me to record one and the other one for me to hold in case he was killed or hurt and something and I would have a home.

Q. In other words, you would record the deed that put the property in his name, the deed from Hovey to Douillard, so it would be of record? A. Yes.

Q. Then you were to keep the deed from him to you to hold it, so if anything happened you could record it?

A. That's right. [251]

(Testimony of Melanie Douillard Woodd)

Q. Then you say you recorded it about a month later?

A. Yes, when the little boy got into some trouble.

Q. What trouble was going to affect the title to this property?

A. Well, I felt my nephew would be sued on account of the trouble of the little boy.

Q. Was he sued?

A. I don't know; I will have to let him tell about that.

Q. You have not talked to him? A. No.

The Referee: I think it is clear. There was some trouble coming up and you were afraid he might lose the home?

A. Yes, sir, that is right, and we don't sit and talk about these things, I have been sick.

Q. By the Referee: Well, now what about this—if you think Mr. Knapp would have another \$1,000.00 coming, then if that is the case there is something that still should be paid to him, even under your theory, or did he get the \$500.00 from Mr. Hovey?

A. I don't know that.

Q. How is Mr. Knapp going to get his money if he should have another \$1,000.00, if he has not been paid to that extent, how is he going to get his \$1,000.00?

A. I don't know.

Q. Apparently there is some complication in connection [252] with this \$500.00 that Dr. Hovey took, apparently that didn't go on to Mr. Heath, did it?

A. I don't know what dealings Mr. Hovey had with Mr. Knapp.

(Testimony of Melanie Douillard Woodd)

Q. Do you have any intention or understanding that you in the future would balance up Mr. Knapp's account or pay him any more or anything of that sort?

A. No, sir, that is what I went through bankruptcy for; I could not pay these people.

Q. On the other hand, you think he is entitled to it?

A. Well, if anyone is, I think it is Mr. Knapp.

Q. Well, do you feel he should or should not?

A. He should.

Q. How is he to be paid?

A. Well, I would have to borrow some money somewhere to pay it.

Q. He did most of the work, did he?

A. He did, yes, sir. It was not his fault that this cost me so much; the Douillards and their lawyers kept pressing.

Q. Well, do you have any money to pay him?

A. No; I could mortgage the property.

Q. Was that what you intended to do to take care of his account? A. I had not thought of it at all.

The Referee: I see. Any other questions? [253]

Q. By Mr. Bowden: You paid nothing for the deed from your nephew to yourself? A. Nothing.

Q. He just gave you that? A. He gave me that.

Q. That is the reason you didn't put any internal revenue stamps on it? A. That is right.

Mr. Bowden: That is all.

The Referee: Are there any questions by Mrs. Woodd's counsel? Do you have anything else to bring out?

Mr. Stewart: Your Honor, in connection with the other transaction—the documents from the bank.

(Testimony of Melanie Douillard Woodd)

The Referee: Oh, yes.

Q. By Mr. Stewart: Mrs. Woodd, do you recall anything about the new loan Dr. Hovey made on that property down there wherein you seem to have signed something? A. Yes, I do.

Q. Do you recall what it was you were asked to sign?

A. Yes, I had to sign something—I don't know; I signed whatever it was.

Q. By the Referee: Well, the bank asked you to do that, did they? A. Yes, sir.

Q. Because you were on the other note? And you didn't get any of the money? [254]

Q. Apparently you went to Dr. Hovey's office and signed the check we have? A. Yes, sir.

Q. Do you know what happened to the money?

A. I know it by hearsay, what he said.

Q. What did he say?

A. That it went on the Yarborough note; Mr. Clements has the money or will have it.

Q. The \$1,770.00 went to Dr. Hovey?

A. Yes, and Dr. Hovey put it up for this note, to keep fighting this Yarborough note, which was my property once.

Q. What did Dr. Hovey have to do with that?

A. I signed over the trust deed as partial payment.

Q. Now, we have had an indication that Dr. Hovey was acting as the trustee or agent for Mr. Heath and Mr. Knapp, is that your idea of his position?

A. Yes, I knew that.

Q. When you dealt with him, you assumed you were dealing with Mr. Heath and Mr. Knapp? A. Yes.

(Testimony of Melanie Douillard Woodd)

Q. It really was not his money, but it was there?

A. Well, I thought when he bought it at the Sheriff's sale that he bought that land, that he was the legal owner and it was Dr. Hovey this and Dr. Hovey that.

Q. Yes, but he came into the picture as the trustee, merely standing for Mr. Heath and Mr. Knapp? [255]

A. Yes, sir.

Q. In other words, it was really their money owing to them and not to Dr. Hovey, and he acted as the plaintiff? A. Yes, sir.

Q. Did you regard him as such?

A. Well, I didn't pay any attention to that.

Q. I just want to know if you realized his position?

A. I knew he was the assignee, yes, sir.

Q. By Mr. Stewart: In that connection had you heard of some dealings also between Mr. Heath and Dr. Hovey, some business transactions, wherein Mr. Heath may have owed Dr. Hovey something? A. Yes.

Q. And that was also involved in the handling of these affairs?

A. That's right. He told me he owed Dr. Hovey \$1,000.00 and \$200.00 attorney's fees—I don't know exactly.

Q. By the Referee: Mr. Heath told you he owed Dr. Hovey \$1,000.00 and \$200.00 for attorney's fees?

A. That is what I thought he said.

Q. Dr. Hovey is not an attorney, is he?

A. No; maybe he mentioned he had to have an attorney for some of these fights. Dr. Hovey had to come up again and again, I don't know.

Q. Now, the estate of Mr. Heath, according to what Mr. Knapp has indicated—when I said he owned this

(Testimony of Melanie Douillard Woodd)

property— [256] I don't know, apparently he contended three-eighths was owed to him and five-eighths to the Heath estate; in other words, the Heath estate here has the same position as has been expressed by Mr. Knapp as to his position; what is your contention with respect to that? How about the Heath estate, do you still owe them any money? A. The Heath estate?

Q. Yes. A. I don't feel that I do.

Q. If there was \$1,000.00 owing, you feel that he has in the past been paid? A. Well, I will tell you.

Q. Well, start in now; you contend you don't owe them anything? A. Yes, sir.

Q. And if you did owe them money in the past; and you did, didn't you?

A. Yes, and Mr. Heath owed me money.

Q. And you contend that has been paid?

A. I feel—Mr. Heath bought a piece of land from me. 1732 South Vermont, he and his wife, for \$7,500.00, and I had an equity of \$500.00 in it and he bought it from me and he collected the rent for a year but he never paid me the \$500.00.

Q. Was that after this \$4,000.00 judgment against you?

A. Yes, sir, but that had nothing to do with it; this [257] was a side issue; he bought this piece of land and collected the rent but he never paid me.

Q. He said he would give you how much?

A. \$500.00.

Q. So you gave it to him and he collected the rent for a year?

A. Yes, sir. And then let it go by default.

(Testimony of Melanie Douillard Woodd)

Q. How much were the rents?

A. I think \$80.00 a month.

Q. Around \$1,000.00, if he collected it for a year?

A. Yes, sir.

Q. That would be \$1,500.00; \$500.00 and \$1,000.00?

A. Yes, sir.

Q. And he got that money?

A. I guess so; the bank wrote me—

The Referee: I just wanted to know.

A. I think he did.

Q. You contend he got that money and that he settled his claim against you? A. I would feel that way.

The Referee: Any other questions? Now, you may cross-examine, Mr. Knapp.

Q. By Mr. Knapp: Mrs. Woodd, when was the first time that you knew that Dr. Hovey was selling the Virginia Street property?

A. I didn't know it. [258]

Q. Did Mr. Douillard live in your place in 1940 and '41? A. No, he never lived with me until now.

Q. Well, you were on very intimate terms with him during that period, were you not?

A. Yes, of course.

Q. You bought him an automobile?

A. I made the payment on an automobile.

Q. And a house?

A. No, no. I never bought Louis Douillard a house; that was for George Douillard.

Q. You bought an automobile for him?

A. I made part payment.

(Testimony of Melanie Douillard Woodd)

Q. And when the trouble came up with the elder Douillard you told him all about it, didn't you?

A. I guess I did.

Q. And later on you told him about the suit by Mr. Knapp and Mr. Heath against you?

A. I guess I did.

Q. And that was brought in the name of Dr. Hovey?

A. I don't know that I said that.

Q. You talked with him frequently about it?

A. Not so frequently; he went to war right after that.

Q. Now, prior to the time of the deed that was made, I think on the 11th of September, 1946, prior to that time you had talked with him about your desire to have that property [259] for your own, the Virginia Street property? A. No, I had not.

Q. You had not talked with him at all about how you needed it for your old age? A. No, I didn't.

Q. And there was no expression between you about it? A. No.

Q. And you knew that he was going over to see Dr. Hovey, didn't you?

A. I knew he was working and helping Dr. Hovey.

Q. Did he tell you about any conversation with Dr. Hovey relative to that property?

A. No, he didn't.

Q. Did you ever talk with him about the value of that property? A. No, sir.

Q. You never did? A. No, sir.

Q. Did you ever tell him about how much the encumbrance was on the property?

A. I don't think I did.

(Testimony of Melanie Douillard Woodd)

Q. Did you tell him it was property that was worth seven or eight or ten thousand dollars?

A. No, I did not.

Q. And he never asked you anything about it?

A. No, he didn't. [260]

Q. He never talked with you about the value of it or anything? A. No, he does not.

Q. Then out of a clear sky on the 10th or 11th of January, he just brought over the deed and said, "I bought this property"—

Mr. Bowden: September the 12th, I think.

Mr. Knapp: Yes, September, 1946.

A. Mr. Knapp, I was up at your office in the spring and a big tree fell down—wait a minute—and then I remember the wind came and blew the roof of my house and I came and told you about these things and annoyed you, I guess, and when I came back again and told you another large tree was leaning on the little house and might kill those people, that seemed to annoy you again and you said, "We will sell." You didn't say, "I will sell," and I went home all excited and nervous and told Louis, "It looks as if the place will be sold," and he took it upon himself.

Q. Just a moment, when you told him, "It looks as if the place will be sold," what else did you tell him?

A. Just that.

Q. Did you tell him who said that?

A. Yes, I said Mr. Knapp said it but I didn't tell him Mr. Knapp owned it.

The Referee: You just answer Mr. Knapp in full—his questions. [261]

Mr. Knapp: Go ahead.

(Testimony of Melanie Douillard Woodd)

The Witness: That is all, Mr. Knapp.

Mr. Bowden: I think she had finished her answer.

The Witness: What was it?

Mr. Knapp: You were telling a story of what happened after that.

The Referee: The first conversation was related, that is her trip to your office.

The Witness: I was telling him about the tree falling down.

The Referee: Yes, but the question just before that had to do with the trip to Dr. Hovey's office, that is Mr. Douillard's, tell us about that.

A. I just came home and told him we might be evicted and the place sold and he didn't say a thing about it but he went down to see Dr. Hovey about it?

Q. Why didn't he go to see Mr. Knapp?

A. I don't think he knew Mr. Knapp was the owner.

Q. I thought you said awhile ago in answer to Mr. Knapp's question that you knew Dr. Hovey was only the agent?

A. I did, but I didn't say anything about it.

Q. Did you tell your nephew who lived there in the house?

A. No, I kept saying Dr. Hovey was the owner.

The Referee: All right.

Q. By Mr. Knapp: But you did tell him on the instance [262] of those trees and so forth that Mr. Knapp had said the place was to be sold? A. Yes.

Q. When was that, about?

A. Well, that was sometime before September the 11th, I cannot tell how long.

(Testimony of Melanie Douillard Woodd)

The Referee: That seems a little inconsistent. Now, you told him Mr. Knapp said the place would be for sale or would be sold and then you just got through saying he didn't know Mr. Knapp had anything to do with it.

A. I didn't say Mr. Knapp said that. I said he said that we will sell it.

The Referee: I thought you told me a minute ago he didn't know anything about Mr. Knapp's connection with the case.

A. I just said he told me, "We will sell."

Q. By Mr. Knapp: Now, how long was it after that, to the best of your recollection, that Mr. Douillard brought the deed over to you?

A. I cannot say, Mr. Knapp, it might have been a couple of weeks.

Q. A couple of weeks?

A. Right in there somewhere.

Q. Did you have any conversation with him in the meantime or he with you? A. No. [263]

Q. As to the urgency of getting the property in your possession? A. No.

Q. Now, did you talk with Dr. Hovey about this sale? A. No, sir.

Q. You go to take treatments every once in awhile from Dr. Hovey? A. I do.

Q. During that period of time did you take any treatments from him?

A. I have not had any treatments for several months. I don't think any since then.

Q. By Mr. Knapp: And when he brought this deed over to you, showing Dr. Hovey had given him a deed for that property, did he talk about the transaction between him and Dr. Hovey at all? A. No.

(Testimony of Melanie Douillard Woodd)

Q. Did he tell you any of the details? A. No.

Q. You didn't ask him? A. No.

Q. Didn't it occur to you as rather peculiar that Dr. Hovey would make a deed to him without Mr. Knapp's consent? A. I never gave it any thought.

Q. You thought nothing about it?

A. No, I didn't. [264]

Q. Had you consulted with any attorney prior to the time you took these deeds? A. No.

Q. If I understand correctly, your testimony was to this effect: You state whether I am right or not, that he brought in a deed, executed by Dr. Hovey to him?

A. You mean Louis Douillard?

Q. Yes. A. Yes, sir.

Q. And that at the same time he brought in a deed executed by him to you?

A. Yes, it might have been a day in there.

Q. And I understood you took those two deeds to the bank? A. Yes.

Q. What bank was that?

A. The Security Bank.

Q. What department was it?

A. In Mr. Dick's department, the loan and trust.

Q. The loan department? A. Yes.

Q. What happened there, what did you ask him?

A. I asked him—on the first set of deeds I asked him if this deed was all right and he said the legal was wrong and he had it filled in. I had the new—

Q. By the Referee: He made the new forms out?

[265] A. That is right.

Q. Then you had to give them back to Mr. Louis Douillard? A. That is right.

(Testimony of Melanie Douillard Woodd)

Q. And he had to take them back to Dr. Hovey to have Dr. Hovey sign them again? A. Yes, sir.

Q. It was a good thing you didn't record this first one; it was all ready to record, was it not?

A. Yes, sir.

Q. During all of this time you didn't come back and talk to Mr. Knapp about this? A. No.

Q. Did you know how much Louis gave for the property? A. Yes, sir, he said \$500.00.

Q. Didn't that amaze you? A. Amaze me?

Q. Yes.

A. No, sir, they got it for seventeen hundred; why should \$500.00 amaze me?

Q. Well, you made a better deal than they did.

A. I hope so; at least.

Q. Well, the property is worth many, many times \$500.00? A. It is in awful shape.

Q. But that was all Louis paid for it?

A. Yes, sir. [266]

Q. And it didn't surprise you when he told you he had bought the property for \$500.00? A. No, sir.

Q. Did you think that was too much, considering they got it for seventeen fifty?

A. Yes, I would think it was too much.

Q. You didn't really expect he would have to pay anything for it? A. I don't know, your Honor.

Q. But you think the \$500.00 was too much that was paid? A. Oh, no, I just said that, no.

The Referee: Oh, Mrs. Woodd, don't say anything you don't mean.

A. No, I think \$500.00 was enough.

(Testimony of Melanie Douillard Woodd)

Q. By the Referee: You think he should not have paid any more than that?

A. Oh, I don't know, your Honor.

The Referee: Any more questions? Any other redirect?

Mr. Knapp: I have some more questions I want to ask, your Honor.

The Referee: Oh, pardon me. Go ahead.

Q. By Mr. Knapp: When you took the deeds down to the trust company and brought them back to Mr. Douillard, did he tell you where he got the \$500.00?

A. No. [267]

Q. Now, did you owe him \$500.00?

A. I owe him?

Q. Yes, did you owe him \$500.00?

A. I did not.

Q. And did you give him \$500.00?

A. I did not.

Q. By the Referee: Are you sure of that?

A. I am sure of it; he has a bank account of his own.

Q. In other words, the question is, in effect, was it your money? A. No, sir, it was not my money.

Q. It was not your money? A. No, sir.

The Referee: Any other questions?

Mr. Knapp: That's all.

Mr. Bowden: Just a moment, please.

Q. By Mr. Bowden: Mrs. Woodd, when you endorsed this note so that Dr. Hovey could get that \$1,000.00 to put up as a bond in that other case in the Yarborough matter, what interest did you have in the outcome of the Yarborough case?

A. Nothing at all. I had no interest in that at all.

(Testimony of Melanie Douillard Woodd)

Q. In other words, you had signed over the note to Dr. Hovey to be applied on the judgment of Hovey versus yourself? A. Yes, sir, that released me.

Q. That released you? [268]

A. Yes, sir.

Q. And that note and trust deed of the Yarborough what amount was due on it, approximately \$1,000.00?

A. No, I think it was \$686.00 at that time, something like that.

Q. And the judgment had gone against Dr. Hovey and they wanted to appeal it, is that right?

A. I don't know.

Q. That was what he wanted the bond for, wasn't it?

A. Yes, I think that is what Mr. Heath said.

Q. Now, you had no interest in the Yarborough note and you had no interest in the Glendale property?

A. No.

Q. Then why were you interested in Dr. Hovey's getting \$1,000.00 out of the Glendale property to carry on the Yarborough—

A. Let me straighten you out on that—Dr. Hovey never got that off of the Glendale property, he got it off of the Virginia property.

Mr. Bowden: Well, let me get that straight.

Q. By Mr. Bowden: Why were you so interested in Dr. Hovey getting the \$1,000.00 upon the Virginia Avenue property for the Yarborough note?

A. I was not interested, the bank called me in.

Q. What did they say to you?

A. They said there was some form in the bank, and they [269] wanted that.

(Testimony of Melanie Douillard Woodd)

Q. Now, Mrs. Woodd you have been in the real estate business?

A. No, I studied to be, but I failed two or three times.

Q. Now, Mrs. Woodd, you know enough to know you don't have to sign that if you had no interest in that property? A. No.

Q. And you knew at the time you signed your schedule that you had signed that note?

A. I had forgotten about it.

Q. You had forgotten about it?

A. Yes, because I got no money from it.

Q. Were you supposed to get some money?

A. No, and I didn't have any money or hidden assets when I filed my schedules the first time.

Q. Now, I think you said you went to Dr. Hovey and signed that note. A. I signed the check.

Q. You didn't sign the note down there?

A. No.

Q. Did he call you to come down?

A. No, I had collected the rents and I took them down and he told me.

Q. Now, all during the time you were collecting the rents on the Virginia property you were quite friendly with [270] Dr. Hovey?

A. I would not say so awfully friendly.

Q. You were friendly enough to collect the rents and take them down and wait for a check, weren't you?

A. Yes.

Q. You were not unfriendly with him? A. No.

Q. That went on for a year, until the time you went up to Mr. Knapp and told him about the trees and as

(Testimony of Melanie Douillard Woodd)

you said he got mad at you and was going to sell the property? A. Yes, sir.

Q. Did you take any rent to Dr. Hovey after that?

A. When?

Q. After the time you went in to Mr. Knapp's office and before your nephew came home with the deed?

A. I don't think so, because the rents are due on the 15th of the month and this was done on the 11th or 12th, so I had no occasion to go down there.

Q. You had no occasion to go down there?

A. No.

Q. Now, having had all of this contact with Dr. Hovey, and Mr. Knapp telling you they were going to sell the property, why didn't you go down and talk to Dr. Hovey about it?

A. Because my attorney told me not to approach Dr. Hovey, not Mr. Stewart but Mr. Crandall, when I was discharged. [271]

Q. In other words, after Mr. Knapp said this, you went to your attorney, Mr. Crandall, and discussed this with him?

A. No; he told me that the day I was discharged here, in September. He told me I was a free woman and could buy this and that and if anyone wanted to give me money or gifts I could accept that, and I was free to start in business or whatever I wanted to do.

Q. And he told you not to talk to Dr. Hovey?

A. I said I could not see why I could not go in and talk to Dr. Hovey about this land and he told me not to.

Mr. Bowden: That is all.

The Referee: What is your contention, Mrs. Woodd, about Dr. Hovey's position? It was indicated by him

(Testimony of Melanie Douillard Woodd)

that he was not selling this property and didn't intend to sell this property to Mr. Louis Douillard, that all he was doing in effect was selling his trust position?

A. I never heard that.

Q. In other words, he was in there earning a fee; they were paying him a fee for the use of his name and his services as assignee, and his position when he was here, as I recall it, was that he was merely selling his trustee position, not the clear title, but just taking \$500.00 and transferring it all over subject to the trust?

A. I heard him say that, your Honor.

Q. Well, what is your position in connection with that? You thought Mr. Louis Douillard was getting the whole [272] property, didn't you? A. Yes.

Q. And that terminated the matter? A. Yes.

Q. Do you know how much Dr. Hovey had made out of this deal since he first was named as the plaintiff to sue you on the fee? A. No, your Honor.

The Referee: Well, I don't know that I know either; but apparently there has been certain moneys which were paid to him for his services?

The Witness: Yes, but not by me.

The Referee: Yes, but it is your money.

The Witness: That is between the lawyer and him.

Q. By the Referee: Do you think for his services there was anything else that should be paid him out of this property other than what he has received? Did you ever think about that? A. No, your Honor.

(Testimony of Melanie Douillard Woodd)

Q. Now here is something I cannot quite understand; in a matter as important as buying this property, didn't it occur to you to talk to Mr. Knapp about your nephew buying the property? A. No.

Q. Didn't you believe Mr. Knapp owned it?

A. Well, had he talked to me about it, I might have, [273] but the boy took it upon himself and went straight down and did it by himself.

Q. If you had known anything about his purchasing the property, you would have told him to go to Mr. Knapp first? A. I think I would have.

Q. Did you tell Mr. Knapp anything about it when you found out he had gone down and bought it and deeded it to you, then you didn't think of Mr. Knapp at the time? A. No, I didn't.

Q. Why not? Did you think he had no interest remaining in it or did you think he was through and out of it? A. I didn't know.

Q. This is a pretty small, simple point; we are saying whether or not you talked to him and why you didn't. Did you think he had no further interest in it or did you think he still had an interest in it?

A. I cannot answer that, your Honor.

Q. Well, did you think he had been paid in full?

A. I don't know.

Q. Did you think there was something still owing him? A. I don't know.

(Testimony of Melanie Douillard Woodd)

Q. In other words, you never gave it any thought one way or the other? A. They had everything.

Q. They had everything; you had lost everything but this property which you got back? [274]

A. Well, that was gone too at that time.

Q. Yes, and you had lost everything else?

A. Everything.

Q. When you say "They had taken everything else," whom did you mean?

A. Mr. Heath, Mr. Knapp and Dr. Hovey. They kept saying Hovey, it was Dr. Hovey.

Q. And in addition to what they had taken, do you think they were entitled to something else?

A. I don't think so.

The Referee: Are there any other questions? I would suggest at the continuance that Mrs. Woodd may, if she desires, take the stand, and now that she knows the questions, see if she can give any more complete answers to them. I would like to get a little more definite answers on some of these matters. This matter is continued to Thursday afternoon. January 23, 1947, at 2:00 p. m.

Mr. Bowden: Will the Court instruct the witnesses to return?

The Referee: Yes, all witnesses are ordered to return at that time.

(Court adjourned.) [275]

Melanie Douillard Woodd January 23, 1947
2:00 p. m.

Order to Show Cause on Various Parties;

Order to Show Cause on Bankrupt;

Examination of Witnesses.

The Referee: Are you ready in this Melanie Douillard Woodd matter?

Mr. Bowden: Yes, your Honor. Mr. Douillard, will you take the stand.

LOUIS ALFRED DOUILLARD, SR.,
being first duly sworn, on oath testified as follows:

Mr. Bowden: These are the exhibits the Trustee offered?

Mr. Stewart: Mr. Dick had the originals.

The Referee: I will clip them together.

Q. By Mr. Bowden: Mr. Douillard, what relation are you to the bankrupt? A. Her nephew.

Q. You are living with her now? A. Yes, sir.

Q. Where? A. 5255 Virginia Avenue.

Q. How long have you been living there?

A. Approximately a year now.

Q. That is the property in which we are—in which this litigation is about? [276] A. Yes.

Q. You, I believe, acquired a deed for that property?

A. I did.

Q. From whom? A. Dr. Hovey.

Q. When was that?

A. May or June, I forget the date.

Q. September the 12th?

A. Somewhere in there.

Q. And you gave your aunt a deed? A. Yes.

(Testimony of Louis Alfred Douillard, Sr.)

Q. That was all done in one day?

A. No, sir, I gave her the grant deed the next day.

Q. That would be the 11th and 12th of September, 1946? A. Yes, approximately.

Q. And I think you testified she didn't pay you anything for the deed?

A. That is right, she didn't.

Q. And you paid Dr. Hovey \$500.00?

A. That is right, I did.

Q. How did you happen to go to see Dr. Hovey on that date?

A. I have called on him a couple of times on the property. I went down and did work for him.

Q. Did he tell you he owned the property?

A. Yes, sir. [277]

Q. Did you know anything about Mr. Knapp's claim to the property? A. No, sir.

Q. Did you ever find anything about that up to the time of this hearing? A. What is that?

Q. Up to the time of this hearing did you know anything about Mr. Knapp's claim to the property?

A. No, sir, I did not.

Q. By the Referee: In connection with Mr. Knapp's claim, Mr. Douillard, you knew in a general way that he and Mr. Heath had represented your aunt?

A. No, I did not.

Q. You knew she had had some litigation with her relatives, didn't you?

A. Something about this bankruptcy is all.

Q. No, I mean this litigation with her relatives.

A. I was in the Army at that time.

(Testimony of Louis Alfred Douillard, Sr.)

Q. I know, but I am asking you if you knew anything about it. A. Oh, yes, sir.

Q. And you knew your aunt was represented by attorneys, didn't you? A. Yes.

Q. Did you ever hear the name Heath or Knapp?

A. I believe it was Mr. Heath. [278]

Q. And whatever information you secured was from your aunt?

A. Well, anything about the case was not spoken to me much about it.

Q. Did she tell you she still owed Mr. Heath or Mr. Knapp any money?

A. No, she never mentioned that at all.

The Referee: All right.

Q. By Mr. Bowden: Mr. Douillard, is E. A. Douillard a relative of yours?

A. Well, he is supposed to be my uncle.

Q. Your father's brother?

A. Yes, sir, my father's brother.

Q. He was the plaintiff in the litigation between your aunt and himself, wasn't he, one of the plaintiffs?

A. I believe he was.

Q. And your father was one of the other plaintiffs?

A. I believe he was, yes, sir.

Q. Did your aunt tell you, that is the bankrupt, that Mr. Knapp and Mr. Heath had already been paid?

A. She never mentioned it, no, sir.

Q. What conversation did you have with her before you went down to see Dr. Hovey?

A. I had no conversation with her.

Q. Didn't she tell you that Mr. Knapp told her they were going to sell the property? [279]

(Testimony of Louis Alfred Douillard, Sr.)

A. She mentioned something about going to sell but she didn't say who.

Q. That is why you went down to see Dr. Hovey, wasn't it?

A. No, it was not, necessarily. I went to see him because I wanted to fix it up as a home; it is run down. I didn't want to invest any money in it until I had it.

Q. Did you invest any money in it?

A. I have a little, yes, sir, for repairs.

Q. You don't claim any interest in it, do you?

A. No, except for repairs.

Q. It belongs to your aunt?

A. I deeded it to my aunt.

Q. Isn't it a fact that that property always has belonged to her; she has always lived in it?

A. I don't know whether it always belonged to her or not.

Q. But she has always lived in it?

A. Yes, sir, ever since I have known, yes.

Q. By the Referee: You say you did repair it some?

A. Yes, sir, I did.

Q. About how much did you put in it in repairing it?

A. Oh, I would say around probably a hundred dollars or so, this and that, buying materials.

Q. That was over a year, was it?

A. Oh, yes, sir, the roof had to be fixed, it was [280] leaking like a sieve.

Q. And that is what you put into the property?

A. Yes, sir.

(Testimony of Louis Alfred Douillard, Sr.)

Q. By Mr. Bowden: How much rent have you been paying since you have lived there?

A. I don't pay rent. Not exactly rent, I give my aunt \$20.00 a week.

Q. And you have been giving her that for the last year? A. Ever since I came out of the Army.

Q. That is for room and board, or do you buy the groceries besides?

A. Well, I pay the utilities.

Q. And she buys the food?

A. Well, she goes out marketing.

Q. Do you buy any food?

A. Well, I have bought a few things, yes, sir.

Q. What has she been doing with the \$20.00 a week you have given her for the last year?

A. I would not know.

Q. When did you come out of the service?

A. December the 8th, 1945.

Q. And you immediately went to live with your aunt?

A. Yes, sir.

Q. And you are living there now?

A. Yes.

Q. By the Referee: I would like to go back, so Mr. [281] Douillard can just relate what he did in connection with the acquiring of the property. You have had several questions as to sort of conclusions, I just want you to tell what you did on the day in question and how you happened to do it and what pieces of paper you took in, if any, and the form of the deed and what happened and what you said to Mrs. Woodd and so forth.

(Testimony of Louis Alfred Douillard, Sr.)

Now, you were informed by her that the property was to be sold, was that it?

A. Well, she mentioned something to that point.

Q. Did you tell her then that you were going to go in and see Dr. Hovey? A. No, I didn't.

Q. You mean she didn't know you were?

A. She did not know it when I went down.

Q. She didn't know you had a secret thought in the back of your mind that you were going to buy the property? A. No, not at that time.

Q. When did she know it?

A. I would say after I went down and bought it.

Q. Did you have any idea what the property was worth on the market? A. No, I didn't.

Q. You knew about how much was against it, didn't you? How much is against it; this property that you were buying.

A. I don't know just what is against it. [282]

The Referee: What is against it? If a man is going to buy property, that is the first thing he wants to know.

A. I imagine about \$2,800.00.

Q. So you were going to buy the property subject to the \$2,800.00? A. Yes, sir.

Q. It was necessary to know what was owing, wasn't it? A. Well, I guess so, yes, sir.

The Referee: Well, asbsolutely. You go out and buy a \$2,800.00 lot that has \$2,800.00 against it and is worth \$3,000.00, then all things being equal you would pay \$200.00 and assume the balance?

A. That's right.

Q. So you must have known what was against it?

A. Yes, I did know.

(Testimony of Louis Alfred Douillard, Sr.)

Q. And you had not told your aunt you were going to see about the sale? A. No, not as yet.

Q. When you picked Dr. Hovey and his wife up that day, where did you go?

A. I took them to a Notary.

Q. Then what did you do?

A. I had the paper notarized.

Q. The deed? A. Yes, sir.

Q. Was that already prepared? [283]

A. Yes, sir.

Q. It had been prepared and you took it with you?

A. Oh yes, sir.

Q. And you went to a Notary? A. Yes, sir.

Q. Where was the Notary?

A. In Glendale on Brand Boulevard.

Q. And then you took the deeds out of your pocket; the deeds were all filled out before you picked up Dr. Hovey? A. Yes, sir.

Q. Then you picked up Dr. Hovey and then got his wife and took them to a Notary?

A. Yes, sir, and they signed the deed there.

Q. You are sure they signed the deed there?

A. Yes, sir.

Q. And then you picked it up, it was just one deed, wasn't it? A. Yes, sir.

Q. And then you brought the deed back?

A. Yes, sir.

Q. What did you do with the deed when you brought it back?

A. I gave it to my aunt to take down and have it recorded for me.

(Testimony of Louis Alfred Douillard, Sr.)

Q. Did you hand it to her alone or did you hand her another deed at that time? [284]

A. I believe I just handed her the one.

Q. Then what next happened about the property?

A. Then I went and had the one made out with my name, to her.

Q. The same Notary? A. No, sir.

Q. Another Notary? A. Yes, sir.

Q. The same day?

A. No, I believe it was the next day.

Q. Then you handed that to her also?

A. Yes, and I told her to put it away.

Q. You told her to put it away? A. Yes, sir.

Q. And you told her to record the other one?

A. I told her to take that other one down and have it recorded for me.

Q. And she took it down and had it recorded?

A. Yes, sir.

Q. Did she ever give you a bill for having it recorded?

A. No, I gave her some money at the time.

Q. How much did you give her?

A. I forget, about \$5.00, I think.

Q. Did she give you any money back?

A. No, I don't think so.

Q. Now you have related it as it actually happened, [285] have you?

A. Yes, as it actually happened.

Q. You had some deeds in your pocket all filled out?

A. Yes, sir.

Q. You picked up Dr. Hovey and his wife?

A. Yes, sir.

(Testimony of Louis Alfred Douillard, Sr.)

Q. Or rather you had one deed?

A. One deed.

Q. And so you picked up Dr. Hovey and his wife and went to the Notary and the deed was signed and delivered to you, you brought it back and gave it to your aunt and told her to have it recorded?

A. That is right. I was working.

Q. Then the next day you had another form filled out?

A. Yes, sir, that is, I had it made out, at the same time, I had a friend make it.

Q. You had a friend notarize it?

A. Not notarize it, just type it up.

Q. It was typed up at the same time as the first one?

A. Yes, sir.

Q. But you didn't sign it until the next day?

A. No.

Q. Then you went to a Notary and signed it?

A. Yes, sir.

Q. And then you took it to your aunt?

A. Yes, I wanted her to have it. [286]

Q. Then she took it in and recorded it?

A. She took just the one in and recorded it.

Q. And you told her to keep the other one?

A. Yes, in case anything happened.

Q. Now let's go back over this and see if you can recall anything else.

Now, you went in to Dr. Hovey's?

A. Yes, down on Washington Boulevard, when he was there.

Q. And then you went with him to pick up his wife?

A. Yes, sir.

(Testimony of Louis Alfred Douillard, Sr.)

Q. Now before you did that, what else did you say about the purchase?

A. Well, I told him that I wanted it just for a home; I was not interested in it as an investment.

Q. You have told us about that but so far you have not said anything about arriving at a consideration. That is one of the important things of the deal. I would like to know how you happened to barter and so forth as you do in a real estate deal and got that amount.

A. Well, I believe that is what Dr. Hovey said he wanted at that time.

Q. What did he say?

A. He wanted to know whether I would be able to pay \$500.00.

Q. What did you tell him?

A. I told him I thought I could pay that all right. [287]

Q. Did he tell you he was not the owner of the property and was merely holding it in trust?

A. No, sir, he told me he was the owner.

Q. And was just selling his trust interest?

A. No, sir, he did not.

Q. He told you he was the owner?

A. Yes, sir.

Q. How did he happen to tell you that; what led to that?

A. I asked him if he was able to sell the property and he said yes, he was the owner. I figured on him being the owner because everything went down to him.

Q. Did you mention anything to him about Mr. Heath or Mr. Knapp?

A. I didn't know Mr. Knapp was interested.

(Testimony of Louis Alfred Douillard, Sr.)

Q. Why did you ask him if it was all right to sell, that is rather unusual question?

A. Well, because my aunt had been going through bankruptcy and everything was happening; I didn't know what was going on.

Q. And he was the one who mentioned the \$500.00?

A. Yes, sir.

Q. And you didn't know what he would take until he said that? A. No, sir.

Q. Then what did you say when he said \$500.00? [288]

A. I said all right, I would take it.

Q. What had you thought you would pay for it?

A. I didn't have any set figure in my mind.

Q. So then you closed up the deal right away, as soon as he named the figure? A. Yes, sir.

Q. Then you went to the Notary and signed it?

A. Yes, sir.

Q. You saw Dr. Hovey and his wife sign the deed?

A. Oh, yes, I was right there and so was the Notary.

Q. Who was it that filled in the form? You said it was a friend.

A. Yes, Miss Murphy, she just typed it.

Q. And she typed it in before you went in to Dr. Hovey's? A. Yes, sir.

Q. And that is the form which was recorded, is it?

A. I believe it was recorded.

The Referee: Any other questions?

Q. By Mr. Bowden: Mr. Douillard, I think you testified that previously, did you not, before you went

(Testimony of Louis Alfred Douillard, Sr.)

down to see Dr. Hovey you bought a certified check for \$500.00?

A. No, sir; I gave my personal check.

Q. Well, you made it out before you went down there, did you? A. No. [289]

Q. You just took the blank check down and made it out?

A. I think I made it out at the Notary's when I signed the papers.

Q. When were the internal revenue stamps put on the deed?

A. I don't know, my aunt took care of that.

Q. Weren't there any stamps on there when it was signed at the Notary's office?

A. I believe there was, I am not sure.

Q. Well, don't you remember?

A. Well, no, I don't.

Q. You would know, wouldn't you, if you looked at it, whether the stamps were or were not there?

A. I don't remember whether they were or not.

Q. Isn't it a fact that when you went down to talk to Dr. Hovey he told you your aunt owed him \$500.00?

A. Oh, no, sir.

Q. He didn't say anything like that?

A. No, sir, he did not.

Q. How much money did you have in the bank at that time?

A. Oh, I think I had around \$1,800.00, somewhere in there, in my checking and savings.

Mr. Bowden: That is all.

Mr. Krapp: May I cross examine?

The Referee: Yes, go ahead.

(Testimony of Louis Alfred Douillard, Sr.)

Q. By Mr. Knapp: What day did this conversation take [290] place with Dr. Hovey?

A. What day?

Q. Yes.

A. I don't remember the day.

Q. What day of the month?

A. I don't remember those dates.

Q. The deed, I think, was dated the 11th of September. A. Well, the conversation was not then.

Q. How long before that was the conversation?

A. Oh, I would probably say two or three months, I talked to him off and on as I done work for him.

Q. For two or three months you talked with him about buying that property, is that right?

A. Just mentioned it, he would think it over.

Q. And during the time you were having these conversations with him for two or three months, did you ever talk with Mrs. Woodd about your conversations?

A. No.

Q. You never said a word?

A. No, I had no occasion to.

Q. And when you went to get the deed from him, that is, to have him and his wife sign the deed, you had not paid anything at that time, had you?

A. No.

Q. When did you pay him anything?

A. When he signed the deed. [291]

Q. Well, how did you know he owned the property?

A. Because he said he did.

Q. Just because he said he did? A. Yes.

Q. He didn't show you any deed, did he, to the property? A. No.

(Testimony of Louis Alfred Douillard, Sr.)

Q. You never asked to see any deed?

A. No, I was not interested in seeing a deed or whatever he would have.

Q. Where did you get your description of the property? A. Off of a tax receipt.

Q. Where did you see the tax receipt?

A. Dr. Hovey showed it to me.

Q. And that is the only thing you saw, the tax receipt?

A. Yes, sir.

Q. No deed? A. No.

Q. It didn't go through escrow? A. No.

Q. Have you got your bank statement with you covering that date? A. You mean the check?

Q. From your bank, yes.

A. I have the canceled check.

Q. Have you the bank statement showing the condition of your bank account during that time; how much was withdrawn [292] and how much was put back in?

A. I haven't it with me now.

Q. Now, isn't it a fact that there was \$500.00 put back in there? A. No.

Q. You can secure the bank statement, can you not?

A. Oh, yes.

Q. Now these conversations that ran along over the purchase of the property, running, you say, for about two months before the property was finally bought, when was the first time there was any purchase price mentioned?

A. Oh, I think just a few days before I went down with the grant deed, after he had talked to me on it.

Q. Who brought up the idea of your buying the property first? A. I did myself.

Q. You did? A. Yes.

(Testimony of Louis Alfred Douillard, Sr.)

Q. From Dr. Hovey?

A. Yes, I wanted to acquire the property so I could fix it up.

Q. Were you at that time paying \$80.00 a month?

A. \$80.00 a month for what?

Q. I understand from your testimony which you gave a few moments ago that you were paying \$20.00 a week.

A. Oh, to my aunt? [293]

Q. Yes. In other words, \$960.00 a year.

A. Yes, sir.

Q. And the groceries besides?

A. I never said I bought all of the groceries, no, sir.

Q. You knew besides that there was a rental of \$30.00 a month, was there, or was there any other rental?

A. On the apartment we live in?

Q. Yes.

A. No, I don't believe there was.

Q. How many houses are there on that property?

A. One and a small one. The one has been divided into a duplex.

Q. Is the small one rented? A. Oh, yes.

Q. You knew that at the time? A. Oh, sure.

Q. Did you know how much the rental was?

A. I am not sure exactly what it is.

Q. You had an idea, didn't you?

A. Yes, around \$20.00 or \$25.00.

Q. In other words, about \$300.00 a year for the small one and let's say around \$960.00, about \$1,260.00 in all a year for rentals, and yet you paid \$500.00?

A. Yes, I paid \$500.00.

(Testimony of Louis Alfred Douillard, Sr.)

Q. At the time Dr. Hovey was talking to you, you were talking about a tree being down and he could not fix it? [294]

A. Yes, it was not down yet.

Q. But you could fix it?

A. No, I could not fix it but it has to be done.

Q. And he told you he could not carry on the work?

A. Yes.

Q. And he told you his trusteeship was worth more than \$500.00?

A. No, he didn't mention trusteeship to me.

Q. You heard him testify here, didn't you?

A. I cannot help it. I didn't know about any trusteeship; I wish I had.

Q. By Mr. Stewart: Mr. Douillard, you didn't know of any \$960.00 rental on the main building of that property, or the \$30.00 on the little house?

A. No. I assumed the rents more or less took care of the mortgage, maybe the taxes; if they didn't I would have had to.

Q. By Mr. Bowden: How much was the duplex renting for? A. The other side?

Q. Yes.

A. I think it rents about the same as the other little house.

Q. \$20.00 a month? A. \$20.00 or \$25.00.

Q. That is about \$50.00 a month rental, not including the place where you and your aunt live? [295]

(Testimony of Louis Alfred Douillard, Sr.)

A. No, I believe the little house is about \$20.00 a month.

Q. Do I understand from your present testimony that on September the 11th, when you went to Dr. Hovey's place with the deed that you had already agreed on the \$500.00? A. No.

Q. You had not agreed over this three months' period of time you had been talking to him? A. No.

Q. Had you ever had any other conversation about money? A. No.

Q. You never had mentioned the price you would pay and he never had mentioned the price that he would take?

A. No.

Q. How many conversations did you have during that two or three months you referred to?

A. Well, I don't know; I would be there doing some work for him; I had to pick up furniture different places for him.

Q. Why did you go down to do work for him?

A. Because he asked me to. He was not able to.

Q. What work did you do?

A. Like picking up furniture for him from some lady of his.

Q. Some lady of his?

A. No, just a chest of drawers.

Q. By the Referee: This was just a personal favor and [296] had nothing to do with this?

(Testimony of Louis Alfred Douillard, Sr.)

A. No.

Q. And you didn't charge him for it?

A. No, I did not.

Q. Until you made your final arrangement you had never discussed the price of this property with him?

A. No, I had not.

Q. You were quite an optimist that day when you went out and had the papers made out and took them in there before you discussed the price or before you knew he would sell to you?

A. Well, I wanted to get the property and fix it up; I was not going to fix it up for someone else.

Q. This is the first time I ever heard of the purchaser having so much confidence that he could close the deal that he would have the deed prepared before he went in to the seller.

A. I didn't know whether he would sell or not, I didn't know but what he might change his mind.

Q. Did you have the \$500.00 filled in on the deed before you went to see him?

A. I don't know whether I did or not.

Q. If you had, that would be strange, wouldn't it?

A. Well, I don't know—

Q. You don't need to worry, you didn't have the \$500.00 in the deed. [297]

A. I don't remember.

The Referee: That's all. Step down.

Mr. Bowden: I will call Mr. Garnier.

A. P. GARNIER,

being first duly sworn, on oath testified as follows:

By Mr. Bowden:

Q. Mr. Garnier, do you know Melanie Douillard Woodd, the bankrupt? A. Yes, I do.

Q. How long have you known her?

A. Well, I should say about six or seven or eight years. The first time I met her she came into my office, she had a piece of property on Vermont near Washington, she had been trying to sell it and she couldn't sell it and that is how I got acquainted with her.

Q. Did you handle that deal for her? A. Yes,

Q. What other transactions have you had?

A. That was sold for around \$7,500.00.

Q. What other transactions have you had with her?

A. I sold that trust deed down at Homes Garden for seven or eight hundred dollars.

Q. Any other transaction?

A. I sold her the Glendale property.

Q. Any other transactions?

A. No, that is about all, I guess. [298]

Q. Have you seen her quite frequently off and on in the last seven or eight years?

A. Well, like I would any client.

Q. I think you testified before you saw her about every week?

A. I couldn't say, maybe once a week or once a month or once in two months. I could not tell you.

Q. Anyway, you have seen her frequently over these past years?

A. Just like anyone I would do business with, sure.

Q. You purchased the Glendale property?

A. Yes.

(Testimony of A. P. Garnier)

Q. When did you purchase it?

A. You have the date there, I don't remember.

Q. January 1, 1946?

A. Well, that is the time.

Q. How much did you pay for it?

A. \$3,300.00, no, \$3,350.00.

Q. You paid \$2,400.00 cash and assumed a mortgage of \$600.00?

A. Yes, subject to a \$750.00 mortgage.

Q. \$750.00 or \$600.00?

A. I think \$750.00, I don't recall exactly.

Q. Well, you paid approximately \$3,100.00?

A. Around thirty-three, I thought. I have all of the information if you would like to see it. [299]

Mr. Bowden: We have it.

The Witness: Then that is all.

Q. By Mr. Bowden: You made your deal with Dr. Hovey?

A. I did not. Well, let's see—what do you mean? I didn't quite catch that question.

Q. Are you a real estate broker? A. I am.

Mr. Bowden: O. K.

The Witness: Now let me analyze it so there won't be any mistake.

Mr. Bowden: Well, we don't want a mistake.

The Witness: Mr. Knapp's wife called me up and I came to his office and he told me it was O. K. to go through with the property.

Q. By Mr. Bowden: When was that?

A. Whatever date it is.

(Testimony of A. P. Garnier)

Q. Sometime in January?

A. Those dates right there (pointing to paper). I don't recall them, and I went to escrow and put up my money and Mr. Hovey I presume eventually went there and put up his escrow instructions, that is the way it was done.

Q. By Mr. Bowden: Did you talk to Mrs. Woodd about it?

A. No, she had nothing to do with it.

Mr. Bowden: We will decide that.

Q. You knew she originally owned that property? [300] A. Yes.

Q. And you were seeing her quite frequently?

A. You have asked me that question a half a dozen times.

Q. Well, answer it if you don't mind.

A. I do, because you are repeating it.

Q. You were seeing Mrs. Woodd quite frequently?

A. No, I don't want that frequently in there, I told you how often I saw her.

Q. Well, you were seeing Mrs. Woodd off and on?

A. Now you are talking. I saw her just like I would any client.

The Referee: Oh, gentlemen, gentlemen, let's get to the questions.

Q. By Mr. Bowden: When you went to Mr. Knapp's office at the suggestion of Mrs. Knapp, who did you see down there? A. That's right.

Q. Well, whom did you see down there?

A. I told you, I saw Mr. Knapp and Mrs. Knapp.

(Testimony of A. P. Garnier)

Q. Both of them together?

A. Yes, I went into his office. When I came there I went into his office and we talked it over and Mr. Knapp told me—we got together on the deal and then we went into escrow.

Q. Let's have the conversation. What was the first thing that was said? [301]

A. Oh, I don't remember that conversation, goodness sakes, it was a year and a half ago. He called me there and I went and we made the deal and that is all I can tell you.

Q. By the Referee: You said a moment ago that Mr. Knapp said it would be all right for you to go ahead with the deal, what did he mean by that? You usually don't go to a fellow and he usually does not say it is all right for you to buy my property. Did you just go in and ask to buy it or did they come to you and ask you to buy it?

A. They came to me.

Q. Did you raise the question was it all right to make the sale of the property?

A. I wouldn't say that. He was the one, I believe, that said they wanted to sell it and for me to go ahead with the deal.

Q. Then you concluded the escrow?

A. Well, not there, I think the next day or the next.

Q. And you executed your instructions and Dr. Hovey must have come in and executed his?

A. Yes, yes, sir.

Q. You apparently agreed on the price, in general, on the first day? A. Yes, your Honor.

(Testimony of A. P. Garnier)

Q. Up to that time had you ever discussed with Mrs. Woodd the fact that you were going to buy this property?

A. No, sir. [302]

Q. You had never discussed it with her?

A. No, sir.

Q. Then she never knew, that is, from you?

A. No, sir.

Q. When did you first discuss with her or her nephew this property? A. Not a thing in the world.

Q. Did you ever before these hearings discuss with her or tell her you had bought the property?

A. I assume she knew it.

Q. I am asking did you tell her?

A. That I purchased the property?

Q. Yes, or have any discussion with her about it?

A. You mean after I purchased it?

Q. Yes, after you purchased it.

A. Well, I presume so, I don't know.

Q. You considered she was out of it and the title was in Dr. Hovey and she had no interest of any kind in it? A. Yes, yes, sir.

Q. In other words, in connection with this deal it was, as far as you were concerned, a bona fide transaction?

A. I should say, yes.

Q. You were buying it as cheap as you could, you put up your money and got your deed and then you resold it?

A. That is correct, your Honor.

Q. And Mrs. Woodd got no part of it? [303]

A. No, sir.

(Testimony of A. P. Garnier)

Q. And wasn't supposed to?

A. No, sir, it was my property, and my profit. That is the way I make my living, I buy these things and sell them.

The Referee: I think your position is quite clear. We have had nothing to the contrary.

Q. By Mr. Bowden: When did you sell this property to Mrs. Woodd?

A. You are going pretty far back, I cannot remember that date.

Q. Well, approximately?

A. I guess three or four years prior to this sale.

Q. Around 1942 or '41?

A. Something like that. I think I sold it for \$3,500.00.

Q. You sold it to her for \$3,500.00?

A. I think so, thirty-three or thirty-five.

Q. And you bought it for thirty-one?

A. I bought it for thirty-three, and then besides the thirty-three I had expenses—I had escrow charges and back taxes and one thing and another which brings it up to more than that.

The Referee: That is clear. If the trustee or the creditors contend from that—

Q. By Mr. Bowden: Then you sold it for \$8,750.00?

A. Correct. [304]

Q. When did you sell it?

A. You have the date there.

Q. Don't you remember?

A. Wasn't it in April.

Q. April, 1946? A. Something like that.

Q. About April the 12th? A. Yes.

(Testimony of A. P. Garnier)

Q. So you held the property from January, 1946 to April? A. Three or four months, yes, sir.

Q. And I presume it took about a month to go through escrow when you bought it and about a month to come out of escrow when you sold it?

A. That is about right.

A. It seems to me there were a couple of months in between. I would not have sold it then but this barber was going to be thrown out and he came to my office and asked if I wanted to sell it and I told him I was always looking for profit.

Q. Do you happen to have all of your canceled checks and bank statements for 1946?

A. No, but if it is satisfactory to my attorney—I have brought along my checks and balances and all of that, if that will help you. [305]

Q. Your bank checks? A. Yes.

Q. And statements?

A. Yes, I have my statements but of course I wouldn't want these to go on record; I would like to have it kept off but I am willing to show it to you, if that will do you any good.

The Referee: I imagine the inquiry would be whether or not your bank checks showed any payment to Mrs. Woodd.

The Witness: Oh, no, not a thing, I never gave her a nickel or anyone else.

Q. By the Referee: Either by check or by cash?

A. Oh, no, your Honor.

The Referee: Any other questions?

Mr. Bowden: That is all.

The Referee: Any cross examination?

(Testimony of A. P. Garnier)

Q. By Mr. Knapp: Was there any—did you make any examination of that place for termites?

A. I would say this: It was in very bad shape, termites, painting inside and out and that is why I figured I should purchase it for that price. It was in very bad condition.

The Referee: That is all. This witness is excused.

Mr. Bowden: I will call Dr. Hovey. [306]

MILES L. HOVEY,

being first duly sworn, on oath testified as follows:

By Mr. Bowden:

Q. Dr. Hovey, you are a chiropractor doctor?

A. Yes, sir.

Q. Are you acquainted with Mr. Knapp?

A. Yes, sir.

Q. And the bankrupt Mrs. Woodd?

A. Yes, sir.

Q. And you were acquainted with Mr. Fred W. Heath in his lifetime? A. Yes, sir.

Q. Now we have been discussing this property on Virginia Avenue, which is the property described in the Trustee's petition; that property stood in your name as of record, last September the 11th? A. Yes.

Q. And about September the 11th you had a transaction with Mr. Douillard, the bankrupt's nephew?

A. Yes.

Q. Tell us what conversation you had with him that day.

A. Well, he came in and said he would like to have the place.

(Testimony of Miles L. Hovey)

We had talked about the condition of this place many times before and he made an offer of \$500.00 for it.

Q. Did you tell him you owned the place? [307]

A. I told him that I had it in my name as trustee.

Q. What did he say to that?

A. Well, that was all right, that was just the same thing.

Q. What did he say, though?

A. I don't recall what he said exactly; his exact words.

Q. Did you tell him Mrs. Woodd owed you \$500.00?

A. No.

Q. There was no conversation about that?

A. No.

Q. You claim she did owe you \$500.00 at that time, don't you?

A. No, she didn't owe me anything.

Q. She didn't owe you anything at all?

A. No.

Q. By the Referee: Did you tell him that there was a \$2,800.00 encumbrance against the place?

A. I don't recall that I did discuss the loan on it because that naturally would go with the place.

Q. What was he—did he ask you if the place was clear? A. No.

Q. And you didn't tell him—what did you suppose he was giving you the \$500.00 for?

A. All he gave me the \$500.00 for was the place. I wanted some work, I hated to see the place depreciate so. [308]

(Testimony of Miles L. Hovey)

Q. Yes, but why would he give you \$500.00 and maybe get nothing but a job out of it and maybe a thankless job?

A. Well, he wanted the place to live in.

Q. He was already living there?

A. And he didn't want to put any repairs in it without having something to show for it.

Q. I know, but he was not going to own the property, was he?

A. He would own whatever interest or title I had.

Q. And what was that?

A. That was the trustee ownership.

Q. And what was that trust?

A. I don't know what that is.

Q. Why would you sell your trust position? You could not do that, could you, without conferring with Mr. Heath or Mr. Knapp; why would a man buy your position? A. I don't know.

Q. It might be terminated the next day, just like that, you had no life interest in this, they might terminate this on you the next day?

A. I should think they could, I don't know about that.

Q. But you never had any discussion with Mr. Douillard on that phase of the case?

A. No, I took it for granted he understood that. He didn't talk about that.

Q. Now, he came in on that day, the 11th, and that is [309] the first time you had discussed the price with him, is it, or had you told him you would take \$500.00?

A. No; I don't recall. We talked about the place several times.

(Testimony of Miles L. Hovey)

Q. Did you talk about how much it would take for him to buy your position or your trust interest?

A. No, I think that was the first time the price was mentioned at all.

Q. And you mentioned nothing about the encumbrance on the property?

A. I think they knew all about the encumbrance.

Q. But you didn't talk with him about it?

A. No.

Q. You went with him to get Mrs. Hovey and went to the Notary? A. Yes, sir.

Q. Did he have these papers for you to sign?

A. The papers that were typewritten.

Q. The first time he came to get you and picked Mrs. Hovey up and went to the Notary, did he take those papers out of his pocket for you to sign?

A. He handed them to me and my wife and I handed it to the Notary and then he picked up the paper and went out.

Q. Went out with the deed? A. Yes.

Q. He didn't come back another time to have a deed [310] signed?

A. He came back and said these papers were not correct and it would have to be done over.

The Referee: Your memory is better on that than his. He didn't recall anything about that. You heard him testify, didn't you?

The Witness: Yes, sir.

Q. By the Referee: When did he come back and have another deed signed?

A. I don't remember that date but it was perhaps—

(Testimony of Miles L. Hovey)

Q. Was it a week afterward?

A. A week, I should judge, approximately that.

Q. Then this second deed, did you and Mrs. Hovey go with him on that occasion?

A. Yes, sir.

Q. To the same Notary?

A. The same Notary.

Q. And that was the deed which is actually recorded?

A. That is correct.

Q. That was about a week after the first happening?

A. Five days or a week, yes, sir.

Q. The \$500.00 check which you received, that was received on the first day, wasn't it?

A. That's right.

Q. And you immediately cashed that, did you?

A. No.

Q. When did you cash it?

A. I don't recall. I put it in the bank later, some time later.

Q. Did you put it in the bank before the second deed was executed? A. No.

Q. Why did you keep it five days?

A. I don't know, I am inclined to keep checks too long.

Q. You were pretty pressed for money at that time, were you not? A. Well, to some extent.

Q. But you just kept the check? A. Yes, sir.

Q. More or less through lack of desire to clear it through?

A. I didn't want to put that check into the bank until I needed it real badly and that, together with the fact that I was moving, and I held it in reserve until I needed it.

(Testimony of Miles L. Hovey)

Q. Did you have any conversation with Mrs. Woodd about selling the property?

A. No, I don't think I discussed it with her.

Q. At any time?

A. Afterwards when they said they had transferred the deed I told her I thought that was a mistake to do that.

Q. Why would it be a mistake, in your opinion?

A. Because she had just gone through bankruptcy. [312]

Q. You mean when they said they had recorded the deed? A. Yes, sir.

Q. And you said that was a mistake because she had just gone through bankruptcy?

A. It would not look very good. He felt he had a perfect right to give his aunt anything he wanted.

Q. How did you happen to find out that he had given the deed to her? Who told you that?

A. Well, she told me that the boy, her nephew's boy, had been in trouble and that he had come and given her the deed. She came over, I believe, for a treatment, and she was telling me that.

Q. She explained he had given it to her and she had had it recorded? A. Yes.

Q. And you told her in your opinion that was not a good thing? A. That is right.

Q. What did she say to that?

A. Well, she said she thought it was perfectly all right; he had a right to give her anything that he wanted to.

Q. As a general principle—and didn't you think it was all right if there was a personal attachment of the

(Testimony of Miles L. Hovey)

aunt to the nephew, that relationship, for him to give the property to her if anything happened to him?

A. Yes, sir. [313]

Q. Did you think that was all right?

A. I think it would be all right.

Q. Did you tell her that or did you have any discussion? A. No.

Q. You were not attacking the proposition then, as a matter of right or wrong; that is, he had no right to give it to her if anything should happen to him; your theory was that even though he had paid you \$500.00 it was not a good idea for him to transfer that to her so close to bankruptcy?

A. Well, it would not look very well.

Q. You didn't mean it would not be all right if there weren't a bankruptcy to give this property to her if anything happened to him?

A. Yes, that would be all right. That was one of the reasons I felt like getting out and transferring it to someone else. I felt very precarious in my own health and wanted to be free.

Q. Then as you understood it, if anything happened to Mr. Douillard, who bought the property from you, if he should die or anything happen to him, the property would pass to her? A. Yes.

Q. What would pass to her?

A. The title I gave.

Q. It wouldn't be much, would it? They would not be getting much if they could cancel it the next day, that would [314] not be taking care of her, would it?

A. I didn't know it was so easily canceled.

(Testimony of Miles L. Hovey)

Q. Well, it had been pretty profitable to you, you got along pretty well by taking the title, didn't you?

A. I had a great deal of mental distress, not being able to physically take care of it and not being able to go to see it but on a few occasions.

Q. Well, if we follow your theory, Mrs. Woodd is now the trustee, holding the property and collecting the rents and so forth; just holding it at the pleasure of the Heath estate and Mr. Knapp? A. That is right.

Q. Suppose she would pay them off, would she then get it under your theory? A. Yes, sir.

Q. How much would she have to pay them?

A. I don't know; that would have to be between them; she would have to pay whatever legal fees was owing.

Q. But you don't have the exact amount?

A. No, I don't think the arrangement between them is settled in amount as long as the litigation is incomplete.

Q. No, why didn't you talk to Mr. Knapp before the sale? We went into that rather thoroughly before and I have the impression—well, you didn't and you seemed to wish now you had and it was more or less an oversight; was that the situation? [315]

A. Yes, that is true, but I never felt very much like talking to Mr. Knapp; he is quite busy and I used to visit and talk with Mr. Heath frequently. I went to him with any legal question of my own or interest of his but I didn't have any personal arrangement with Mr. Knapp on it.

Q. I know, but when Mr. Heath died, then didn't that more or less throw you to Mr. Knapp in connection with this thing? A. Oh, yes, yes.

(Testimony of Miles L. Hovey)

Q. What did you say to Mr. Knapp about this property when Mr. Heath died?

A. I don't think I said anything about it. I don't recall.

Q. Well, it would throw you to him to take up the matters?

A. Well, naturally he was taking care of the legal business of Mr. Heath.

The Referee: I appreciate that.

Q. Did you discuss with him what you should do or how you should continue to hold the property?

A. I believe he told me at one time that as soon as he had time he would discuss with me how they would settle the trust and the property and some different arrangement.

Q. That is, how much they would receive from Mrs. Woodd, is that it?

A. No, when he had time he would have me come down to [316] the office some day and make some different arrangement about it, but nothing further had been said for some months.

Q. Then you slipped in there and gave the deed for \$500.00 without telling him, after he had told you he was going to make some different arrangement?

A. Yes, sir, he told me some other arrangement was going to be made, but nothing was done for so long. I didn't talk to him. I know I should have gone up and talked to him.

Q. Did you remit this \$500.00 to him or to the Heath estate? A. No, sir.

Q. Now, I think out of this other sale you got some \$1,200.00? A. Yes, sir.

(Testimony of Miles L. Hovey)

Q. What did you do with that?

A. I put it in the bank.

Q. And kept it? A. Yes.

Q. Was that—has demand been made upon you for that? A. No.

Q. Was that in payment of something that Mr. Knapp owed you? A. No, Mr. Heath owed me that.

Q. Mr. Heath? A. Yes, sir.

Q. Did that settle your account with him? [317]

A. Well, approximately.

Q. Well, let's say actually.

A. Well, he borrowed \$1,000.00.

Q. Yes or no; does it settle your account—when you got that, did that settle your account?

A. Yes, sir.

Q. And you had nothing else coming?

A. Yes, I would be content with that, although there was no interest for 20 years.

The Referee: Any other questions?

Mr. Knapp: I have a question.

The Referee: Well, let's let the Trustee conclude.

Q. By Mr. Bowden: Was it understood between you and Mr. Knapp that when this Virginia Avenue property was disposed of or settled up that you were to get \$500.00 for your services in connection with it?

A. There was no specified fee. I was to get something.

Q. \$500.00 was talked about, wasn't it?

A. No, I don't believe it was ever mentioned.

(Testimony of Miles L. Hovey)

Q. Who said you were to get something, if not \$500.00?

A. Mrs. Knapp and I believe Mr. Heath, but after Mr. Heath's death, Mrs. Knapp said I should have something for it and that was all that was said.

Q. You had \$500.00 in your mind?

A. Yes.

Q. By the Referee: But you didn't express that to them? [318]

A. No, I didn't say anything; it was not settled yet.

Q. By Mr. Bowden: That is the way you arrived at your \$500.00 with Mr. Douillard?

A. That is right.

Q. You figured that you were getting paid for your trouble in connection with the property; is that correct?

A. That is right.

Q. How much have you received all told from the Woodd litigation, Mr. Hovey?

A. Well, about—including that \$500.00 I think the other was \$1,000.00—it is about \$1,500.00 or \$1,600.00.

Q. That is the total of both of the properties or all properties?

A. That was received out of that litigation but it was not payment for that. It was settlement of Mr. Heath's personal debt to me.

Q. I understand, but what I want to know is how much money have you received from the Woodd property, the Woodd litigation, in total, regardless of what it was paid to you for.

A. Approximately \$1,700.00, perhaps a little less.

Q. And you have kept all that money?

A. Yes.

(Testimony of Miles L. Hovey)

Q. And have made no accounting to anyone?

A. No, that is right.

Q. And Mr. Heath's obligation is all wiped out as far [319] as you are concerned? A. Yes.

Q. And Mr. Knapp's? A. Yes.

Mr. Bowden: All right.

Q. By the Referee: At the other hearing we had a photostatic copy of the will, as I recall, that was offered and marked. Did counsel get that confused in your file?

Mr. Bowden: No; I have looked for it. I talked with Mr. Stewart and he agrees with me that no one touched that will after it was offered and marked.

Mr. Clements: The Court asked two or three questions about it.

The Referee: Oh, yes, and I put it up here and usually after we have a hearing and the exhibits are introduced, the girl comes immediately and lists them and locks them up.

Mr. Bowden: Well, we have ordered another one and I read it into the record and Mrs. Leiden has her notes here.

The Referee: Well, that is not exactly necessary. I just wanted to ask a question at this time in connection with it.

Q. By the Referee: You were here at the other hearing? A. Yes, sir.

Q. And I read the paragraph in the will whereby Mr. Heath in his communication to his wife informed her that there is \$1,000.00 still owing on the Woodd judgment. Do you [320] recall that? A. Yes, sir.

Q. Did you have at any time prior to this death, a discussion with him, the substance of which would lead

(Testimony of Miles L. Hovey)

you to believe that was the correct amount that was owing?

A. No, no, the last time I discussed that with him he said that the legal fees was going to be divided into five-eighths and three-eighths, but there was no amount mentioned.

Q. Did he ever say prior to his death how much he was to receive?

A. In total amount? No, it was \$4,200.00, I think, or something of that kind to be divided.

Q. But he never said how much he had received or how much additional she should receive?

A. No, I don't think he had come to any particular conclusion because there was still so much work to be done yet.

The Referee: Any other questions?

Mr. Knapp: Yes, sir.

Q. By Mr. Knapp: Doctor, you never did get the deed for the Virginia Avenue property into your possession; it never was delivered to you, was it?

A. No.

Q. You never saw the deed, did you? A. No.

Q. You don't know what the contents of the deed are, [321] do you?

Mr. Bowden: I object to that as a leading question.

The Referee: Overruled.

Mr. Knapp: It is cross examination.

The Referee: Go ahead. A. No.

Q. And at the time that the property was allegedly sold to Mr. Douillard there was no deed in your posses-

(Testimony of Miles L. Hovey)

sion that you could show him, is that right, whereby he knew what he was buying? That is, I mean the deed from the Sheriff or anything of that kind?

A. No.

Q. And you were not there at the time of the Sheriff's sale, were you? A. No.

Q. So all—whether you owned that property or not, or how you owned it, was a matter of hearsay, is that true? A. I guess that is right.

Mr. Knapp: That is all.

Q. By Mr. Stewart: You got the rent from that property from the time of the Sheriff's sale?

A. That is right.

Q. And you paid the tax on it?

A. Yes, sir.

Q. Did anyone ever question your getting the rent or paying the taxes or handling the property? [322]

A. No.

Q. By Mr. Bowden: Well, Mrs. Woodd collected the rent for you all of the time, didn't she?

A. She brought it to me most of the time, sometimes I asked her to take it to the bank.

Q. As a regular thing though she would bring it to your office and then you would make a check to the mortgage company or the bank and she would take it and pay the mortgage? A. Yes, sir.

Q. And that was your regular routine, month in and month out, wasn't it? A. Yes, sir.

Q. By the way, what were the payments on that monthly obligation, the mortgage?

A. I think \$30.00 or \$35.00.

(Testimony of Miles L. Hovey)

Q. And that is the amount of money Mrs. Woodd would give you every month?

A. Well, she brought the rentals separately.

Q. Well, it amounted to \$35.00? A. Yes, sir.

Q. One offset the other; she would bring you \$35.00 and you would write a \$35.00 check and she would take it to the bank? A. Yes, sir.

Q. There was no leeway?

A. Well, there was a little. [323]

Q. But it came to \$35.00 every month?

A. Yes.

Q. No one questioned your right to handle and collect those rents? A. No.

Q. By Mr. Knapp: In fact, you were instructed to collect those rents, were you not?

A. Yes, that is right.

Q. By Mr. Knapp? A. Yes.

Mr. Knapp: That is all.

The Referee: I would suggest that it might be appropriate in this hearing to have any of the testimony here in this hearing of Mrs. Woodd, Mr. Douillard or Dr. Hovey on the subject matter that we have under consideration now, considered in evidence in this matter.

Mr. Bowden: We had that stipulated at the last hearing.

The Referee: I knew it covered the witness but I didn't know it was to cover Dr. Hovey also.

Mr. Bowden: I think it was agreed the Court could consider anything that has been offered.

The Referee: That will be the order then, otherwise it could come in a laborious way by the offer and so forth.

(Testimony of Miles L. Hovey)

Q. By the Referee: Now, have you anything to add to this, Dr. Hovey? Can you throw any light on this situation? Sometimes by question and answer we don't get the whole [324] picture because the question is bounding in a certain direction and sometimes if the counsel sticks right with it, it may not open up an inquiry. Can you add anything to your own position, your inconsistent position; you as the admitted trustee look for instructions from Mr. Knapp and Mr. Heath, in the handling of the matter in connection with this property, and then in effect selling the trust and pocketing the consideration; and then the person to whom you sold says, "No, he sold me outright, he told me he could give me good title, that he owned it." I wonder where the truth is in this case. You and Mr. Douillard are as far apart as the poles in your version of this.

The Witness: Well, he made me the offer. He came down and did some plumbing for me and some little jobs and he talked very rarely as a rule, because he was in a hurry and so was I, and there was not a great deal actually said about it; I took it for granted he understands it was a trustee ownership.

Q. He does not believe that and he testified just as clearly as you do. He said he thought he was buying the property. How much was owing on the mortgage at the date of the sale?

A. I imagine about \$2,800.00, I don't know exactly.

Q. \$2,800.00 was owing at that time?

A. I don't know exactly how much it was.

Q. Of course under his theory, that would be vitally [325] important, wouldn't it? A. Oh, yes.

(Testimony of Miles L. Hovey)

Q. And under your theory it would not make any difference, because it was not his obligation, it was the obligation of the beneficiaries.

A. That is right.

Q. Well, apparently we have as much as we will ever get in this.

Q. By Mr. Knapp: By the way, did he ever ask you how much was owing on that property? A. No.

Q. Do you recall his testimony a little while ago to the effect, "You said you were sorry for Mrs. Woodd"?

A. Oh, yes, I probably said that several times.

Q. At that time or in connection with that, did he say he wanted to get the property for Mrs. Woodd?

A. He said many times he would like to have her have a home; but at that particular time I don't recall.

Q. Were you under the impression at the time that he was buying it that he was buying it for Mrs. Woodd?

A. No.

Q. Did he say anything about buying it for himself to live there?

A. No, he said he wanted to improve the place and I told him how badly it needed paint and lawn repair and plumbing repair, but he didn't want to put anything into the [326] place when he didn't have any interest in it.

The Referee: That is so inconsistent I hate to sit here and listen to it. He was buying a trust property, how could he have any interest in it?

The Witness: I didn't want to either.

The Referee: You didn't have to, you could have thrown this up any minute. Why would Mr. Douillard be concerned with getting your trust before he put any money into that trust property?

(Testimony of Miles L. Hovey)

The Witness: He wanted some security that would be at least as good as a lease, when he kept it up. I keep up my place under a lease.

The Referee: That is a naive argument.

Q. By Mr. Bowden: Dr. Hovey, why did you tell Mr. Douillard you felt sorry for Mrs. Woodd?

A. I felt sorry for her because she is very nervous and upset and in such long term litigation.

Q. How long did you say you have known her?

A. Oh, about eight or nine years, ten, maybe.

Q. You have given her treatments off and on during all of that time? A. Rarely, occasionally, yes.

The Referee: Mr. Knapp, what is your contention in connection with this \$500.00? Do you contend that is appropriate compensation to Dr. Hovey for his services in connection with this trust? [327]

Mr. Knapp: My theory of the case, I had nothing to do with it. It is a matter between him and Mr. Douillard.

The Referee: Is he entitled to any trust fee?

Mr. Knapp: Yes, I think he would be entitled to a fee for the trusteeship when he makes an accounting and at that time there would be a determination of what would be a reasonable trustee fee; I think the banks have a rate fixed on that and we would follow that; that was what I had in mind.

The Referee: What is your personal contention of what was actually said to Mr. Douillard and what this witness actually said in the sale? You have been with this case much longer than I have.

Mr. Knapp: I think shortly before this transaction took place there was a conversation between Mrs. Woodd

and Mr. Douillard to the effect that the property was to be sold; knowing Mrs. Woodd as I do, I think she was highly excitable, I think that her nephew, who loved her, was very much alarmed over the situation and he immediately began to ask Dr. Hovey what could be done about buying that property, and that he persuaded Dr. Hovey to give him a deed and gave him \$500.00, which I do not believe was his own.

The Referee: That it came from Mrs. Woodd?

Mr. Knapp: Yes, that it came from Mrs. Woodd but how and in what way I do not know.

The Referee: Well, the values are disproportional, he was getting it at a remarkable value. [328]

Mr. Knapp: I would like to make one like it.

The Referee: What was the balance?

Mr. Bowden: \$2,300.00.

The Referee: Well, the buyer has said \$2,800.00. What is the trustee contention? I am not going to decide this now. I am going over my notes and have the reporter estimate what a transcript would cost and I may order it, so all of you will have the same thing before you. I have kept rather extensive notes but I would rather have a transcript.

Mr. Bowden: I don't believe Mr. Knapp has put on his defense yet.

The Referee: I want to see up to this point, so he will know what to answer, what is your contention as far as we have gone?

Mr. Bowden: My contention is there was a conspiracy. They entered into a conspiracy to get that stipulated judgment, they had execution issue and took it in Dr. Hovey's name and carried it along and finally filed a petition in bankruptcy with the understanding that

as soon as the bankruptcy was over it would go back to Mrs. Woodd. That is exactly what I argued on the discharge that they would do and the court granted the discharge and said I was wrong, but that is exactly what has come to pass. I think it is an out and out conspiracy and I don't mind saying so; I am sorry to have to involve Mr. Knapp, an attorney, in it, but that is my opinion. [329]

The Referee: Is there any other evidence?

Mr. Knapp: I would like to make a statement as to Mr. Heath's will.

The Referee: All right. Go ahead.

Mr. Knapp: Shall I take the stand?

The Referee: You have been sworn and you may sit right there. The will is in evidence.

Mr. Knapp: Mr. Heath at the time that this will was drawn evidently was of a mental status that he didn't know what his condition was, his financial condition. For example, "Mrs. Wilger is about paid up."

Mr. Bowden: If this is testimony, I am going to object to it. Mr. Knapp is not qualified to give an opinion.

The Referee: Yes. If you want to say that the man who made this will was incompetent, we are going to hold here that that will was made by a competent person.

Mr. Knapp: May I suggest at this time there was a statement here, taken from all of the rest of it—"Mrs. Wilger is about paid up."—

The Referee: That is reading from the will?

Mr. Knapp: Yes, sir, your Honor, at which time he also said, Mrs. Wilger is about paid up and that the Santa Rosa Mining Company owed him about \$5,000.00—

The Referee: Now, you are going to say that the man was not mentally sound.

Mr. Knapp: I don't know what it was, whether it was to [330] put his best foot forward in his wife's mind—

The Referee: I don't think we should take this dead man's will here and say he made misstatements as to his assets.

Mr. Knapp: Well, it was only to show that what was said in the will could not be taken at 100 per cent.

The Referee: But the will has been admitted to probate.

Mr. Knapp: Is has, we had to put it in.

The Referee: You don't have to put in the will of an incompetent.

Mr. Knapp: I don't know that he was incompetent, he was just in an extravagant mood.

The Referee: You want to show that Mr. Heath was incompetent on the day that was written and therefore we should not consider it as a declaration—unless you want to do that I think we should sustain the objection. Is there anything else?

Mr. Bowden: Nothing else from the Trustee unless Mr. Knapp has some testimony or defense.

Mr. Knapp: As regards this conspiracy—there is not one iota of conspiracy on the part of Mr. Knapp in connection with it. On the contrary, the entire evidence is contrary to anything of that sort. This thing has been reduced to transcript after transcript and adjudicated on this point, both in the Superior Court and the Appellate Court and finally in the Supreme Court of the State of California; [331] and out of anything that ever happened to any individual, the party who is opposed to him can

always bring in the idea of conspiracy or something of that kind, but there is no conspiracy in this case. As to his prophecy as to what would take place, I know nothing about it and have heard nothing about it. But I can see where Mrs. Woodd would try her very best to get hold of his property if she were advised badly, but it certainly is true that Mrs. Woodd took this property over without any knowledge on the part of Mr. Knapp and certainly not of Mr. Heath who is dead, and that the day after the discovery, Mr. Knapp went to Mrs. Woodd's place with Dr. Hovey to find out what had happened and how it had happened.

Possibly this is too much of a personal effort to prove as far as I am concerned and I hope the Court will excuse me, but I am a lawyer, and, your Honor, it hurts.

The Referee: I wish the reporter would give me an estimate on the cost of a transcript in this matter. Everything that has been said, and have it all written up. It may just be a coincidence that the argument that the trustee made at the time I granted the discharge and rather approved this transaction in the first instance has now come to pass; he said as soon as she gets her discharge she will get this property back, and I guess it was 60 days or so after her discharge that she did.

Mr. Bowden: She got it before the estate was closed. [332]

The Referee: That might have been just a coincidence. I don't want to do an injustice here. If I knew the amount that was still owing, if it is upon that basis, that is one thing. Dr. Hovey, your trustee, seemed to indicate that the trust was one which could be discharged upon the repayment of the amount that was due; on the other hand, your theory is there was absolute ownership

and he was merely the trustee for you in the operation of the property.

He said that he thought it was all right for Mr. Douillard to buy the property and give it to her so she would have it if anything happened to him. That is an inconsistency because under your theory you and the estate of Mr. Heath are the full owners of this property.

Mr. Knapp: That is true, your Honor.

The Referee: And Mrs. Woodd is a foreigner to it and has nothing to do with it. There are so many inconsistencies in the testimony of Mrs. Woodd, of Mr. Douillard, and of the last witness, Dr. Hovey, that I want to have a transcript just to run them down. There are so many inconsistencies—some maybe not so important but if accumulated they might have some importance. I am not impressed with either of the three I have in mind; their stories have been hard to get and reflecting conflicts in many instances. You have heard them the same as I have. You have heard Dr. Hovey; you have heard Mrs. Woodd and you have heard Mr. Douillard and all of those of you who are at the counsel [333] table can pick up and note the inconsistencies.

Mr. Stewart: I wonder if I could be heard on this to some extent.

The Referee: Yes, sir.

Mr. Stewart: From the connection I have had here, it seems to me the trustee's position has to be there is a conspiracy, that is the only ground upon which there is any issue whatsoever to set aside this discharge, and upon that theory and that theory alone. Their testimony is not satisfactory, it has never been satisfactory to me, any of the testimony; they don't make it clear, but because

there is testimony that arouses suspicious, I don't think that can be considered to be a conspiracy.

The Referee: It should certainly go beyond that, I grant you, it should go to a point where there is no question about it or there should be no order supporting it.

Mr. Stewart: The very fact that the property once belonged to the bankrupt and gets back into the hands of the bankrupt is not proof of a conspiracy. As I view the matter, it is somewhat like this: This woman had been through a lot of litigation and her attorneys wanted their fees, they felt \$7,000.00, but by some understanding with her they got it down to \$4,000.00 and they said all right, let it go at that. They had sold her out of all of the property she had and at that time they had concluded, according to Mr. Knapp, that they were whipped in this litigation and she was going to be [334] cleaned out of her property and they did what prudent attorneys would be expected to do, they protected themselves against everyone else and they sold the property out at the sheriff's sales for amounts less than the judgment, and they seem to have sold it out at a time when these other parties who were trying to recover were in a position to bid in the property and to redeem after it was sold. The properties were sold for less than the amount of the judgment. These people didn't step in and redeem the property; why? Because probably the market was poor at that time and the properties were not worth anything.

The Referee: I agree with you up to this point. Factually I think you are correct. Now, would there have been anything wrong in making an agreement that she could acquire the property for the payment of a fixed amount to them, and was there any such agreement as evidenced by the will? Is that what Dr. Hovey meant

when he said if they were paid what was owing to them, then it would be Mrs. Woodd's property?

Now, I agree with you up to that point. I have heard of attorneys who have sued their clients who they were representing and have bought the property in and then made an agreement to give the property back to them on certain terms. Now let's start from there and have your impression from here on.

Mr. Stewart: I think one of two things might have [335] happened. The attorneys might have made an agreement with Mrs. Woodd—we will buy it in at sheriff's sale and if there is anything left out of it, you can have it; on the other hand, they might have said to themselves and to her, "You are going to get cleaned out and we will take care of ourselves," and went on that theory; and feeling she had had a pretty hard time they had let her live in the property where she had been living and gave her a roof over her head, not because they had any agreement but they had a feeling in the matter, they didn't like to see her out on the street, and I think it is entirely possible the attorneys might have bought that property in without agreement, and if they did I don't think it has any connection with this bankruptcy. If they did buy it in with an agreement, then it does have a connection with this bankruptcy, without a doubt; but I think all of we attorneys have been in positions where some client loses all of the property and if we are in a position where we could get clear on the matter we, without making any agreement, would feel, "After all I don't want to make money out of this woman's hardship—we will give it back to her—" and I think they have a perfect right to give it back to her.

The Referee: What do you think of that statement in the will by Mr. Heath, which was written at a time when he had full and complete title in the name of his trustee and he owned in the name of his trustee \$10,000.00 worth of [336] property, or seven or eight thousand dollars worth, when he said in the will—now remember he had already foreclosed on the judgment and acquired the property as I have outlined, but in this very personal document addressed to his wife he said, "There is still \$1,000.00 owing to me on that judgment"; what do you think of that situation?

Mr. Stewart: I have tried to analyze that and from all of the testimony there has been I have not seen a scintilla of evidence where Mr. Heath had gotten anything out of this property, and if he had not, then he had five-eighths of the \$4,000.00 coming, then how could he say he had only \$1,000.00 coming? I cannot see anything on that from what we have before us.

The Referee: I cannot tie it in myself.

Mr. Stewart: Now, coming down to this transaction whereby this property came back. Coming to these people living in the house. We all know what conditions are now about having or not having a place to live—this had been their home for many years and she was living in the house. Someone said something about the property being run down and selling it and Mr. Knapp became annoyed about it and about being bothered with it and Mrs. Woodd heard of it and she was panicky and that was the nephew's home too, and they wondered what they would do; they were in a position where they did have a place to live and if the property was sold they would have no place to live and they began to try to find some way [337] whereby they could still stay there, and to

my mind it seems possible they were not too particular with just how they stayed there; they were just going to stay.

The Referee: Yes, but why doesn't Mr. Douillard take that position now? He does not take the position he has just a trustee position; no, he says he is buying the full matter to the exclusion of Mr. Knapp.

Mr. Stewart: I don't think he felt he had any trust position. I think he realized this thing was a mess and had been for a long time and he was getting some kind of a title, at least if the thing was sold to him he would not be put out.

The Referee: Didn't you hear him say he was buying it outright with no strings on it and he was getting full title?

Mr. Stewart: Yes, sir, I think that was his position here but if there is any fraud here, it seems to me it was a fraud on the attorneys that Dr. Hovey was acting for. The fraud of Dr. Hovey. I don't care whether they can tie the bankrupt into that fraud or not. That is not a fraud to set aside the discharge. If they expect to bring a suit to set aside the transaction, it is entirely possible they may show Mr. Douillard and Mrs. Woodd took title with sufficient knowledge to set aside that deed, but that is a matter for the proper court when they get to it, but I don't think that is a matter that should set aside the discharge here. [338] Everything points to the fact that there was a fraud on the attorneys rather than any fraud on the bankrupt.

The Referee: Do you represent Mrs. Woodd?

Mr. Stewart: Yes, your Honor.

The Referee: Are you indicating that she is a party to the fraud upon Mr. Knapp?

Mr. Stewart: I say I don't know about that. It looks to me as if the fraud was on the part of Dr. Hovey against his principals.

The Referee: Do you represent Mr. Douillard also?

Mr. Stewart: No, I do not appear for Mr. Douillard.

The Referee: Well, I am going to mark the matter submitted and when I get an estimate of the cost of a transcript and if it is ordered it will be in the file and any of you may take a look at it. It will take some time to get it out, so this matter won't be determined.

Mr. Knapp: There is one thing I want to call the Court's attention to: Mr. Heath had no right at any time to bind Mr. Knapp by any assertion as to how much Mrs. Woodd might owe him.

The Referee: I appreciate that.

Mr. Knapp: Then if he had intended to so state as to his part of the judgment—and there is another thing I want to call the Court's attention to: At the time that this original case of Hovey versus Woodd was taken up we didn't think we had lost the case. We thought we had [339] lost the judgment in the Superior Court but we had every belief that we could win it on appeal and we fought like tigers. We lost but we believed we were right.

The Referee: Well, I will mark the matter submitted.

[Endorsed]: Filed Feb. 14, 1947. Hubert F. Laugharn, Referee.

[Endorsed]: Filed Jun. 18, 1947. Edmund L. Smith, Clerk. [340]

[Endorsed]: No. 11904. United States Circuit Court of Appeals for the Ninth Circuit. Edna D. Heath, Executrix of the Last Will of Fred W. Heath, Deceased, and Myra C. Knapp, Executrix of the Last Will of Daniel A. Knapp, Deceased, Appellants, vs. John N. Helmick, Trustee of the Estate of Melanie Douillard Woodd, Bankrupt, Appellee. Transcript of Record. Upon Appeal From the District Court of the United States for the Southern District of California, Central Division.

Filed April 20, 1948.

PAUL P. O'BRIEN

Clerk of the United States Circuit Court of Appeals for the Ninth Circuit

In the United States Circuit Court of Appeals
for the Ninth Circuit

No. 11904

In the Matter of

MELANIE DOUILLARD WOODD,

Bankrupt.

EDNA D. HEATH, as Executrix of the Last Will of
FRED W. HEATH, Deceased, and MYRA C.
KNAPP, as Executrix of the Last Will of DANIEL
A. KNAPP, Deceased,

Appellants,

vs.

JOHN N. HELMICK, Trustee of the Estate of
MELANIE DOUILLARD WOODD, Bankrupt,
Appellee.

PETITION FOR EXTENSION OF TIME TO
DOCKET APPEAL

To the Honorable Judges of the Above Entitled Court:
The verified petition of Myra C. Knapp respectfully
shows unto the Court as follows:

I.

That on May 3, 1947, an order was entered by a Referee
of the District Court of the United States for the South-
ern District of California, Central Division, whereby
Daniel A. Knapp, the husband of your petitioner, was
deprived of his interest in a parcel of real estate in Los
Angeles County, referred to in the record as the Virginia
property.

II.

The petition for review of said order was denied by the United States District Court on December 1, 1947. Notice of appeal from said order was filed by said Daniel A. Knapp and the estate of Fred W. Heath on December 26, 1947, and two orders of extension of time were thereafter entered by said United States District Court, and the period within which to docket said appeal expires on March 24, 1948.

III.

Since the filing of said notice of appeal by said Daniel A. Knapp and on January 24, 1948, Daniel A. Knapp departed this life and on the 27th day of February, 1948, your petitioner was appointed executrix of his estate.

IV.

That petitioner is desirous of prosecuting said appeal and has retained Ernest R. Utley and J. Geo. Ohanneson as her attorneys.

V.

That by reason of the death of Daniel A. Knapp since the filing of said notice of appeal, your petitioner requires an additional thirty days time in which to docket said appeal and is advised by the Clerk of the United States District Court that an additional thirty days will be required in order to properly docket said appeal.

VI.

That appellants' designation of contents of records on appeal, together with a statement of the points on which appellants intend to rely are being filed in the District Court on this day.

That attached hereto is a stipulation of the attorneys for the Trustee in Bankruptcy, appellee herein, in which an extension of time to and including April 24, 1948, is consented to.

Wherefore, petitioner prays that an order be entered granting an extension to and including April 24, 1948, in which to docket said appellants' appeal.

MYRA C. KNAPP

Petitioner

ERNEST R. UTLEY

Of Counsel for Petitioner

[Verified.]

[Title of Circuit Court of Appeals and Cause]

STIPULATION EXTENDING TIME FOR
DOCKETING APPEAL

It Is Hereby Stipulated by and between the appellants, Edna D. Heath, as Executrix of the Last Will of Fred W. Heath, Deceased, and Myra C. Knapp, as Executrix of the Last Will of Daniel A. Knapp, Deceased, through their attorneys, Ernest R. Utley and J. Geo. Ohanneson, and the Trustee in Bankruptcy, John N. Helmick, the appellee herein, through his attorneys, Leslie S. Bowden and J. N. Clements, that an order may be entered herein granting appellants up to and including April 24, 1948, to docket the appeal of appellants herein.

Dated this 19th day of March, 1948.

LESLIE S. BOWDEN and
J. N. CLEMENTS

By Leslie S. Bowden

Attorneys for Appellee

ERNEST R. UTLEY and
J. GEO. OHANNESON

By Ernest R. Utley

Attorneys for Appellants

[Title of Circuit Court of Appeals and Cause]

ORDER FOR EXTENSION OF TIME TO DOCKET
APPEAL

Upon the reading and filing of the petition of Myra C. Knapp, Executrix of the Last Will of Daniel A. Knapp, deceased, for an extension of time within which to docket the appeal herein, and good cause appearing therefor,

It Is Therefore Ordered that the appellants herein may have up to and including the 24th day of April, 1948, within which to docket the appeal herein.

Dated this 23rd day of March, 1948.

CLIFTON MATHEWS

Judge of the United States Circuit Court of Appeals
For the Ninth Circuit

[Endorsed]: Filed Mar. 23, 1948. Paul P. O'Brien,
Clerk.

[Title of Circuit Court of Appeals and Cause]

APPELLANTS' STATEMENT OF POINTS ON
WHICH THEY INTEND TO RELY ON APPEAL

To the Honorable Judges of the Above Entitled Court:

Pursuant to the rules of this Court, Edna D. Heath, as Executrix of the Last Will of Fred W. Heath, Deceased, and Myra C. Knapp, as Executrix of the Last Will of Daniel A. Knapp, Deceased, do hereby file with this Court the following concise statement of the points on which they intend to rely on this appeal:

I.

The controversy in the bankruptcy matter pertains to the ownership of one piece of real estate in Los Angeles, California, referred to in the record herein as the Virginia property. On the 18th day of April, 1944, M. L. Hovey became the absolute unconditional owner of said property as trustee for Fred D. Heath and Daniel A. Knapp and his title is evidenced by a sheriff's deed recorded in Book 21513, page 36 of the Official Records of Los Angeles County and neither the trustee in bankruptcy nor the bankrupt had any interest in said property since April 18, 1944. The order of the District Court, dated December 1, 1947, whereby the appellants were divested of said property is therefore erroneous and is not justified by the record and there is no substantial evidence to support the findings of the referee upon which the order of the District Judge was based.

II.

The appellants were not made parties in the above bankruptcy matter until December 31, 1946, when an

order to show cause was issued requiring the appellants and others to show cause in relation to their interest in said property. Therefore, all of the testimony adduced in the above bankruptcy matter prior to said December 31, 1946, is not binding upon the appellants herein.

III.

There is no substantial evidence to support any of the findings contained in paragraph V in the Referee's findings of fact and conclusions of law.

- a. There is no evidence in the record to justify the finding that there was a secret agreement between Fred W. Heath, Daniel A. Knapp and M. L. Hovey on one side and the bankrupt on the other that the Virginia property should be held by Hovey until the attorney's fees were paid.
- b. There is no evidence in the record to justify the finding that the Virginia property was to be returned to the bankrupt upon her discharge in bankruptcy and that in the meantime she should have the use and control of said property.
- c. There is no evidence in the record to justify the finding that the agreed attorney's fees were at any time paid in full and that the judgment entered in the Superior Court action number 450821 was fully satisfied.

IV.

There is no evidence in the record to justify the findings of the Referee contained in paragraph VI of his findings of fact and conclusions of law.

- a. There is no evidence to justify the finding that the Virginia property was an asset of the bankrupt at the

date of the bankruptcy proceeding or at any time since April 18, 1944.

b. That there is no evidence in the record to justify the finding that the ownership of said Virginia property was ever concealed from the trustee in bankruptcy.

c. There is no evidence in the record to justify the finding that fraud was practiced by the bankrupt.

V.

While it is true that said Virginia property was transferred to the bankrupt subsequent to her discharge, the evidence is undisputed that the conveyance to her was without the appellants' knowledge or consent. Therefore, said conveyance to her was a nullity and since April 18, 1944, appellants have been and still are the owners of said property.

VI.

There is no evidence in the record to justify the Referee's conclusions of law.

VII.

The District Court was in error in adopting the Referee's findings of fact and conclusions of law.

VIII.

The District Court was without jurisdiction to deprive the appellants of their ownership and title to said Virginia property in a summary proceeding.

IX.

The controlling issues in the above bankruptcy proceeding as bearing upon the validity of the judgment in said Superior Court action number 450821, referred to in paragraph III, subdivision c hereof, and upon the validity

of the execution sale pursuant to said judgment were fully adjudicated and determined in favor of appellants herein in the case of Douillard v. Smith, reported in 70 Cal. App. (2) page 722 and the determination and judgment made and entered in that case constitutes res adjudicata on the controlling issues presented by this record. Therefore, the order of the District Judge of December 1, 1947, is erroneous.

Dated: June 3, 1948.

Respectfully submitted,

ERNEST R. UTLEY and
J. GEO. OHANNESON

By Ernest R. Utley

Attorneys for Appellants

[Affidavit of Service by Mail.]

[Endorsed]: Filed Jun. 7, 1948. Paul P. O'Brien,
Clerk.

